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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

ORGANIZATION

THURSDAY, MAY 8, 1986



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

VICE-CHAIRMAN: Cordiano, J. (Downsview L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Bossy, M. L. (Chatnam-Kent L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

McFadden, D. J. (Eglinton PC)

Morin-Strom, K. (Sault Ste. Marie NDP)

Sargent, E. C. (Grey-Bruce L)

Stephenson, B. M. (York Mills PC)

Substitution:

McLean, A. K. (Simcoe East PC) for Mr. Ashe

Clerk pro tem: Mellor, L.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, May 8, 1986

The committee met at 10:05 a.m. in committee room 1.

ORGANIZATION

Clerk pro tem: Honourable members, it is my duty to call on you to elect a chairman. Do I have nominations?

Mr. Haggerty: I move that David Cooke be nominated as chairman of the committee.

Clerk pro tem: Are there further nominations?

Mr. McLean: I move that nominations be closed.

Clerk pro tem: There being no further nominations, I declare Mr. Cooke elected chairman of the committee.

Mr. Barlow: We want to hear your acceptance speech.

Mr. D. R. Cooke: I expected you would be rushing off to phone the Kitchener-Waterloo Record.

Mr. Barlow: I think you should do that, now that you are the chairman.

Mr. Chairman: Thank you very much for your vote of confidence. This is a historic occasion, not because of the new chairman but because it is a new committee and a new concept, a concept that apparently has been discussed in this Legislature for some time. You have before you a recommendation of the standing committee on procedural affairs and agencies, boards and commissions.

I am sorry. Perhaps I should not be carried away with the historic occasion.

I call now for election of a vice-chairman.

Mr. Haggerty: I move that Mr. Cordiano be nominated as vice-chairman of the committee.

Mr. Chairman: Mr. Cordiano has been nominated. Are there any other nominations?

Mr. Barlow: Do we need a seconder for that?

Mr. Chairman: No.

Mr. Barlow: I move nominations be closed.

Mr. Chairman: I declare Mr. Cordiano vice-chairman.

Mr. Haggerty: Is he willing to accept the position?

Mr. Chairman: Yes, I understand he is.

Mr. Chairman: Mr. Barlow moves that unless otherwise ordered a transcript of all committee hearings be made.

Is there any discussion?

Motion agreed to.

Mr. Chairman: The clerk has prepared an operational budget. This was after some discussion. As I observe this and other committees at this stage of activities, it is a question of a chicken or an egg. We put together an operational budget, we look at it and we are not certain what we are going to be doing, so it is difficult to contemplate such a budget. Frankly, a lot of its contents are based on supposition, the basic one being that there will be work for this committee to do this spring. If members want to take a look at the suggested budget, I am open for discussion.

Mr. Barlow: It appears we are not going to travel very far anyway.

Mr. Chairman: This is strictly an operational budget. If and when we make decisions to travel, we would then pass a supplementary budget.

Mr. Haggerty: Is that permissible for the supplementary budget?

Mr. Barlow: That would come prior to the spring break, would it not?

Mr. Morin-Strom: I would like clarification on the distinction between this standing committee and the select committee on economic affairs which was constituted in July 1985 and was given a very specific task to be carried out by the end of June. Does that committee still exist separate from this one? Has this one taken over and on what basis would it have taken over that duty? It is very unclear to me.

Mr. Chairman: In preparation for this morning, I invited John Eichmanis from the legislative research bureau to review a bit of the history leading up to the formation of this committee. We will get into that briefly. As I understand the situation, the select committee on economic affairs still exists. It has a duty to submit its final report back to the Legislature by July 10. However, the population of that committee has not yet been approved by the Legislature.

While there may have been some discussion about melding that committee with this one, I understand the present opinion is that will not occur. Rather, there shortly will be a motion in the Legislature to reconstitute that committee and it will then finish its report.

Mr. Morin-Strom: My concern with respect to the budget is whether this includes the budget for the functions still left to be done in that committee, including the possibility that the committee might be extended and might possibly hold hearings during the summer recess? Who knows what might happen on that issue?

Mr. Chairman: No. It does not include any of the work of that committee. It will have a separate budget. Are there any other questions or comments?

Mr. Haggerty: I was just looking at your proposed budget and the

draft of some of the recommendations set down by the Treasurer (Mr. Nixon) on this committee and its intent. When you look at the \$14,000, if we are going to have public hearings on matters concerning the budget and the financial institutions of the province, I think we are going to be jumping into this too soon. Perhaps there is not sufficient funding there. We may have to come back two or three times. Maybe we should be taking a good look at this. Perhaps we should have further discussions on the purpose and intent of this committee. How far we can go? What are its responsibilities? What is the purpose?

Mr. Chairman: One of the reasons we are given an operational budget at the opening of any committee is that it is necessary to direct the clerk and others on what moneys can be spent. In view of your concern--and it is a concern I share--it perhaps would be wise to put this matter to the bottom of this morning's agenda and deal with it after we deal with future business about which our guests can perhaps enlighten us a little on what the Legislature wants from this committee. At that time, we would be in a better position to look at the budget.

Bear in mind that this budget has been drafted solely for the purpose of getting us going. It is fully expected that once we know where we are going, which will not be this morning, frankly, we can go back and ask for a supplementary budget.

Mr. Haggerty: One of the guidelines set out by the Treasurer says we are to review all tax legislation arising from the budget that is coming down on May 13 and prepare recommendations on the level of government revenues, expenditures and net cash requirements. That is a pretty large area to be looking at. It is a portfolio in itself. As I interpret the budget here, it means this committee may have to travel through the province. I do not know whether we have enough numbers to do that. I suggest that if we have to review that with the public, it is going to keep the committee pretty busy.

Mr. Chairman: By this time next week we will have a much better idea of what the government is going to be asking us to look at. It may be that the time to be travelling, if we are going to be travelling, will be after the House rises in June.

Mr. Haggerty: I looked at the figure of \$15,000. I do not know whether that will be sufficient if we are going to have counsel with us when we are dealing with tax matters.

Mr. Chairman: It is nowhere near that. It may well be that eventually we will be looking at a small bureaucracy of our own if we move into those things.

Mr. Haggerty: That is what I am afraid of.

Mr. Chairman: This is nothing more than to get us going for the first few weeks.

Mr. Barlow: How quickly do we have to have this budget approved? We have only a general outline of our terms of reference. We want to discuss the budget amongst ourselves and with others, such as the research staff. Is there a time limit on when this budget must be approved?

Mr. Chairman: The clerk would like to have something. The fiscal year has already started. This morning, we have coffee here and transcription services, so there are bills that will have to be paid. They are internal bills; nevertheless, they are accountable.

Mr. Barlow: Is a week or two going to shatter anything?

Mr. Chairman: Apparently, the Board of Internal Economy is meeting on May 27 and we should give two weeks' notice. Do we actually have to hand them what we want two weeks ahead of time?

Clerk pro tem: A letter goes to the Speaker with the budget as approved by the committee and then we are set down on the agenda of the Board of Internal Economy. To prepare, the Speaker needs about two weeks' notice prior to the meeting.

Mr. Barlow: This could be embarrassing to us if we decide there is a big need for organizational startup costs and come up with a figure that may be 200 per cent or 300 per cent out.

Mr. McLean: I guess that is why John Eichmanis is here this morning, to try to outline and present some of the work this committee is going to be doing. After he has made his presentation, we will have a lot better sense of what we can expect.

10:20 a.m.

Mr. Chairman: Are you suggesting we put this at the bottom of the agenda? I sense that may be the consensus, at least for the time being.

The next matter on the agenda is future business. Mr. Eichmanis, would you take us through the history that has led to the formation of this committee? You might outline some of the thoughts that have gone into the deliberations of previous committees and probably into the addendum to the October budget.

Mr. Eichmanis: The recommendation on the finance committee that was contained in the fourth report of the standing committee on procedural affairs and agencies, boards and commissions that was tabled in the House recently was first put forward to the House in 1980 by the previous committee on procedural affairs in a document called Proposals for a New Committee System. That proposal was part of a larger proposal to restructure the committee system.

As you may be aware, there has been an ongoing parliamentary reform process in Ontario stretching back to the time of the Camp commission. The philosophical basis for the whole restructuring of the committee system was that in a number of parliamentary jurisdictions there was a sense that the executive had come to dominate the Legislature and that the accountability of the executive to the Legislature was not as strong as it could have been. One way of perhaps redressing the balance was to make the committee system more effective.

It was felt this should be done in one area in particular, that of financial accountability. When the committee discussed these matters and sought to inquire of the members at that time how things should proceed, we sent out a questionnaire to the members, dealing particularly with the question of how estimates should be dealt with. As you know, there are now 420 hours allotted to estimates. Our questionnaire showed that by and large that time was never used. More significantly, the actual numbers in the estimates were never looked at comprehensively or in any detail. It was largely a policy exercise in which the critic and the minister exchanged views on the direction of the ministry.

There was some dissatisfaction with the estimates process. As a result of a combination of changing the committee system and dissatisfaction with the estimates process, the committee proposed to create a finance and economic affairs committee which would have the responsibility of dealing with broad economic matters and also would deal with the estimates. The estimates would be tabled in the House and referred to the committee.

Of course, it could not do all the estimates of all the ministries. Therefore, it was proposed that the finance committee would pick and choose only a certain number of ministry estimates and would look at those in which the committee as a whole had an interest and review those very carefully on a rotation basis. It would do three, four, or up to six if it was ambitious one year, and others the following year. By the time the parliament was through, all the estimates of all the ministries would have been dealt with.

The idea was that this committee would actually look at the numbers and the policy questions would be dealt with in the policy field committees, as they are now constituted, by the referral of annual reports of those committees. That would be the opportunity for members to question ministers on various aspects of policy within their jurisdiction.

That was the recommendation that started in 1980 and was adopted by the procedural affairs committee last year. However, the aspect of the recommendation that the estimates should be referred to the finance committee does not form part of the new terms of reference for this committee. The 420 hours are left as they are, so the committee now has the function of dealing with those broad economic and financial matters and not with the estimates.

A number of jurisdictions have proposed this type of committee, either to do both estimates and general economic policy or to split them up. The federal procedural committee in its seventh report in 1983 proposed a fiscal framework committee--that us in effect the terms of reference the committee now has--and an expenditure committee to deal more with estimates expenditures and so on.

The Macdonald commission recommended that there be an economic policy committee at the federal level, much as this committee now is constituted. In England, there is a treasury and civil service committee that is constituted to look at the macroeconomic policy of the government, at the forecasts and expenditures of the government over the long term.

A number of other jurisdictions are either thinking about constituting this type of committee or have already constituted it. Going back to my earlier statement, all these jurisdictions I have mentioned are looking at this type of committee to bring more accountability, to redress the balance between the executive and the Legislature and to give the Legislature more of an impact on the economic policy formation of the executive.

This is by way of background to how this idea began, where it stemmed from and what the motivations of the standing committee on procedural affairs were in recommending that this committee be established and in envisaging that it would be a committee that would take its work very seriously, that would attempt to become an expert on financial and economic matters in this province and that would lend its recommendations and opinions to the government on various economic matters.

Perhaps I can turn now to the sorts of things it was envisaged the committee could or should do. It depends on the committee to decide what it

ultimately wants to do in these areas. I believe the clerk has distributed the discussion paper issued by the Treasurer (Mt. Nixon).

The Treasurer was kind enough to look at the procedural affairs committee's report and to adopt some of the ideas in the report as worthy of consideration by the Treasurer as a way of recommending to the Legislature some of the things this type of committee could do.

The greatest stress is laid on the prebudget period. For the past few years, there has been a tradition where the Treasurer issues a fall prebudget statement indicating the broad parameters of the Ontario economy, the direction in which it is going, unemployment levels and so on. This is a preparation for the eventual budget. As the Treasurer suggests here, this will be an opportunity for this committee to make its contribution to that prebudget process.

10:30 a.m.

In the fall, when the Treasurer tables the Ontario economic and fiscal outlook, as he calls it, the committee will take that document, look at it very carefully and as a committee decide that it wants to look at the implications of the Treasurer's report. It could invite the people the Treasurer suggests at the back of the report to appear before the committee to give their assessments, their views on where the Ontario economy is going, the kinds of parameters you should be using in formulating the budget and generally providing advice to the Treasurer on the direction he should take in his budget.

It would be a consultative process in which you would invite interested individuals, groups and organizations to appear, such as labour groups, business groups, farm groups and other institutions and bodies. Most of them are very keen to participate in the prebudgetary process to give advice to the Treasurer on what direction his budget should take. It was envisaged that this committee would provide an additional source of opinions and ideas that could be used by the Legislature and the Treasurer to influence the final budget. That is one area where I think the committee would play a useful role.

The other area is that it has been a tradition of Ontario Treasurers to include with the budget various proposals, usually as white papers, in which the government has no commitment on the direction it wants to take but is raising certain matters for consideration. This committee could take a lead by looking at those budgetary papers and using them as the basis for hearings to see about the proposals the Treasurer has made on personal income tax or different kinds of fiscal arrangements and to provide a legislative input into the system. That is another area where the committee could serve a very useful function.

As well, various tax measures are tabled in the House as part of the budget and I think the Treasurer suggests in his paper that it would be useful if this committee looked at them. The House leaders may decide for their own reasons that they will not all come to this committee. It is conceivable they could go to another committee, but potentially at least, those tax measures could come to this committee for consideration.

There are some areas, as proposed by the Treasurer, that the committee could seriously consider as its continuing mandate or continuing terms of reference. The Treasurer has also suggested, and this is only a matter of suggestion, that the committee look at the way estimates should be dealt with.

Right now, as indicated before, the estimates are not referred to this committee. They continue to be dealt with under the 420 hours. Conceivably, this committee could look at that, although because the standing committee on the Legislative Assembly has a mandate to look at changes in procedure and so on, I think it would be courteous to have some contact with that committee and perhaps hold joint meetings or make some other arrangements for interaction between the two committees on those things, since they already have a position on the whole question of estimates and how to deal with them. If you were to pursue that matter, perhaps it would be of interest to get together and look at those things.

The committee could look at the whole question of budgetary secrecy. The topic of whether there is a need for all the secrecy around budgets has become fairly prominent in the past 10 years in the area of taxation. Various organizations, including the Canadian Tax Foundation, have suggested that one could dispense with a great deal of that budgetary secrecy. It is a question of taking a more comprehensive look at what could be made more open and what could not.

It is fairly detailed and complex subject matter, but it is an area in which the committee could make a useful contribution. It is one that has been raised at the federal level by several ministers in the past few years. There have been various attempts to begin to open up the process. It is an ongoing consideration in various jurisdictions around Canada and the world. There is no reason why this committee could not look at these matters in more depth to see whether the absolute budgetary secrecy that now exists is really necessary.

As you know and as it has been explained, another possibility is that the estimates are still going to be dealt with in 420 hours and will be delegated to various committees. It is conceivable that this committee may want to, or the House leaders may decide that this committee could, do the estimates of the Ministry of Treasury and Economics and the Ministry of Revenue as part of its ongoing function.

These are some of the areas where there is agreement between the procedural affairs committee and the Treasurer and which the committee could do under its mandate. As well, I would like to make a suggestion to the committee. Perhaps sooner than later, you may have the opportunity to invite people from the Treasury in to explain the budgetary process, not only the actual mechanics of how a budget is made but also the assumptions and types of calculations that form part of the budgetary process. To what extent do federal grants and transfer payments affect the budgetary process? How does that affect the calculations of the Treasurer? There is also the question of looking at the overall health of the Ontario economy and on what basis they make their calculations, so that the committee has a clear understanding not only of how the process works in a mechanical sense, but also the kinds of calculations the Treasurer uses on a year-by-year basis to create his budget. This would be a useful thing for the committee. If you have it on Hansard, the rest of us will get the benefit as well of just how all that works. It will be useful as a reference tool for all members of the Legislature.

10:40 a.m.

Mr. Chairman: Thank you, Mr. Eichmanis. I might indicate to the members of the committee before we entertain questions that I did entertain the idea of inviting Treasury officials here this morning. However, I thought it would be preferable for us to spend a few minutes contemplating our own

navels in their absence, in part because it is obvious that we are intended to be independent of the Treasury and in part because with the budget being brought down next Tuesday, they might have felt a little concerned about discussing matters on the record at this stage. No matter what happens in the budget, it would be appropriate to have that kind of an explanation given to us by Treasury officials as the beginning of our work process. I appreciate very much some of the overview you have given us.

Mr. Barlow: It sounds like an interesting process to have a whole committee structured and set up for this. I have a preliminary question on the prebudgetary meetings of these umpteen groups the Treasurer has met with on an individual basis in the past. Do you visualize us going through this procedure of meeting with these groups and then reporting to the Treasurer?

Mr. Eichmanis: You would report to the House.

Mr. Barlow: Would the Treasurer still have his own private meetings with these groups?

Mr. Eichmanis: Yes.

Mr. Barlow: We do not know whether he is going to listen to the House as a result of our recommendations or whether he is going to sift out a few of them and meet with them. He probably would not meet with all of them because we would have met with some of them.

Mr. Eichmanis: I suppose it is difficult to refuse. The committee always has the discretion of limiting the number of organizations with which it would want to meet. For example, there may be umbrella organizations you could meet with rather than with the individual companies that form part of the association. That may be a way of limiting the--

Miss Stephenson: The committee might have more discretion than a Treasurer is able to have.

Mr. Eichmanis: Probably. The idea is that there is another point of view, a legislative point of view, on these matters that may not necessarily coincide with the Treasurer's point of view, as the chairman indicated. If you look at the assumptions why the Treasurer says that there is going to be an eight per cent unemployment rate and the inflation rate is going to be 10 per cent, you could come along and say: "From our reading of the situation, that is not going to be so. Unemployment is going to be 12 per cent and the inflation rate is going to be 15 per cent." Then it is a question of arguing your case as a committee in front of the Legislature.

Mr. Barlow: This would all be done prior to the budget coming in?

Mr. Eichmanis: This would be in the fall period.

Mr. Barlow: Would it be expected to be another form of input into the Treasurer's budget?

Mr. Eichmanis: The Treasurer would have the discretion whether to take the committee's recommendations or suggestions seriously. He will have his discretion.

Mr. Barlow: The advantage would be that it is done in a public forum as opposed to behind closed doors.

Mr. Chairman: I get the impression from this document that the Treasurer is inviting us to participate much more in the budget formulation. I would not be surprised if many of the groups seeking to see the Treasurer were referred to our committee.

Mr. Eichmanis: Once it became clear to the general public that this is a committee that does that kind of thing, I am sure they would all be quite keen to rush and make their presentations known.

Mr. Barlow: To as many people as possible.

Mr. Chairman: We would encourage open debate prior to the budget.

Mr. Haggerty: This committee can have quite a clout, looking at the recommendations set down by the Treasurer. Almost everybody in the legislature, and the back-benchers in particular, will have more say in government policy and procedures following the prebudget studies and the economic state of the union statement. This is a new change in government policy. This committee can get involved in the issues in a way that has never been afforded before, Dr. Stephenson, by any government.

Miss Stephenson: May I respond, with specific reference to the member?

Mr. Chairman: In the circumstances, yes.

Miss Stephenson: There is a useful purpose to be served in hearing the prebudgetary presentations of a considerable number of groups. However, I warn you that if you follow the direction of the Treasurer and see absolutely everybody, that is all this committee will do. It will do nothing else at all except to hear the prebudget presentations of all the people who want to be heard.

If that is what you want the committee's role to be entirely, then go ahead with open hands to do that, because I promise you, although I said the Treasurer does not have a great deal of discretion to exercise in responding, he does have time limitations he can put on them. The committee would have less success, I think, in ensuring that time limitation. I know how long the Treasurer can spend with each of the groups, and it is a considerable period of time when one examines the numbers of groups that are interested in coming in. I do not think that the committee would have that kind of power.

I think it is a very useful exercise to ensure that there is a wider input into the prebudget development. Whether or not the Treasurer pays any attention is going to be up to him, because the designated role of the Treasurer is such that--although the Premier (Mr. Peterson) from time to time may have a little input, he is not the one who makes the final decision about it in many circumstances--it is necessary that the process be widened. That is precisely what we were hoping to do to ensure that somebody--I did not know which committee we were going to use, but we had to use somebody--got this input in a more publicized way that a considerable number of groups would like to participate in.

I believe there is a broader role for this committee, however, and I would hope we would look beyond simply that prebudget development. To

understand the process that is utilized by Treasury to make the kinds of projections it does, I think is very useful. I am sure it is going to be attacked by a number of economists when it becomes public knowledge, but that is fair game, and I believe it will be helpful. I think that is the way the committee should begin, truthfully.

There is no way I can see that members of Treasury staff could be here this week at all because they are so up to their ears right now that they could not possibly have afforded the time to come in today. But by next week they will have a little more time, except they will be scurrying around covering the posterior aspect of their physiology to ensure that what they have done is deemed to be appropriately rendered.

I would like to suggest first that before this committee organizes itself into a pattern of activity, it should hear all the information that Treasury staff can provide regarding the structural mechanism that is used for budgetary development and budgetary allocation. When you have heard that, you are going to be better fitted to determine the amount of time you should allocate to prebudget input and specifically to estimates examination. I think this committee should broaden that area beyond Treasury and Revenue. I think there are a number of areas that should be examined by this committee, even if they are examined in other committees--we may select five or six a year; I do not know--to take a critical second look at them financially.

There are other roles that can be examined too. For example, I would ask you, Mr. Chairman, whether this committee is going to be expected to continue the function or to produce the final report for the select committee that is floating out there with its feet firmly planted in mid-air right at the moment. If we are expected to do that as well, then we are going to have our work cut out for us this spring.

I do think you should know the relatively complex mechanism that is in place for the establishment and determination of the budgetary process in terms of the mathematics, the philosophies, the actuarial assumptions that are made and all sorts of other things before you make final decisions about the way in which this committee is going to organize its life for the next year.

10:50 a.m.

Mr. Haggerty: I want to follow up on one more point. I think we should be looking for some additional research staff that can work with this committee, and we should be looking to the library for that.

Miss Stephenson: There is no doubt we are going to have to have considerable help.

Mr. Chairman: That is a good point. We are going to have to look to the library, but we are also going to have to look to Treasury itself, because the problems are such that only it can know everything that goes on with regard to--

Mr. Foulds: Not even they know everything.

Miss Stephenson: I do not believe Treasury staff at this point has sufficient adipose tissue to allow that to happen. They are lean, and I mean that.

Mr. Chairman: That is good information. Mr. Foulds, I have you on

next. Just in contemplation of Miss Stephenson's comments, we should bear in mind that the terms of reference we were given are extremely broad; they involve considering and reporting to the House our "observations, opinions and recommendations on the fiscal and economic policies of the province and to which all related documents shall be deemed to have been referred immediately when the said documents are tabled."

Mr. Eichmanis had mentioned an earlier debate about our looking into some perhaps four or five ministries a year, which you have referred to, Miss Stephenson, although we were not given that specific chore to do. I suppose we could attempt to appropriate that in any event, if we wished.

Miss Stephenson: I think we should examine the possibility of that role after we understand what it is we are going to be involved in in terms of budgetary activity, which is a significant part but not the whole role of this committee.

Mr. Chairman: Mr. Foulds, Mr. Morin-Strom and Mr. Bossy.

Mr. Foulds: A few comments, Mr. Chairman. We have our work cut out for us, and I think the major job we have is to define our role, because one of the things I am worried about is that we will sit around, contemplating our economic navels for ever and ever and accomplish nothing. It is very important that we specifically define those things we are going to look at over the next year.

I find myself in substantial agreement with Dr. Stephenson. We should avoid like the plague burdening ourselves with duplicating the work that may be done by the Treasurer. But it would be very wise of us to pinpoint a cross-section of representative umbrella groups that could give us an idea of where they are coming from in terms of the economy and where they think the province is at in terms of the economy.

It is very important for us to undertake some independent and special studies of our own. We need not merely Treasury staff and library staff; we need to have some substantial resources in our budget so we can hire tax consultants, for example, and some independent economists on a consultant basis from reputable organizations such as the C.D. Howe Institute and perhaps from the labour movement or what have you.

If this committee is to function the way I understand the Treasurer wants it to function and the way I understand the standing committee on procedural affairs wanted it to function, it will not simply take government advice. I do not want to use the language or the rhetoric, but I do not think we should be the lapdog of the Treasury. It is important, if we are to do something more than engage in a post-graduate seminar and be just in line with the government, that we do that both in administrative terms as well in defining our role.

To give a couple of examples--and simply because we are starting late, we may not be able to do this--I would like us to take a look at one of my pet hobby horses, which is what we call tax expenditures; that is, those so-called tax loopholes. What we need to do is to examine which of those are legitimate, which are not legitimate and how they have grown up. If a majority of them at present are illegitimate, we could get revenue for the province without increasing taxation. That is the kind of question this committee can have an informed investigation on, it seems to me, and one that would be very valuable.

Looking at tax revenues from the various regions and government expenditures in various regions would also be extremely valuable. How much revenue do we get in the Treasury from the north, for example, or the southwest? How much does the government return in services? What kind of balance sheet do we have there? That would be extremely valuable.

Occasionally we should look at a specific economic problem that seems to be thrusting itself upon the province when we did not expect it. I do not want to be parochial, but I use as an example the major economic difficulties being experienced in the north right now with what appears to be a pattern involving Algoma Steel, Kimberly-Clark and Great Lakes Forest Products.

We could have the authority and the wherewithal to examine some of those questions and bring not necessarily a partisan view and not necessarily a nonpartisan view, but a good legislative view to those questions. Those are some of the things we should look at positively.

In conclusion, if I understand the process correctly, the select committee dealing with free trade--I know it is out there somewhere floating around--was to complete its report by about July 12 and we were to sort of pick up after that.

Mr. Chairman: Yes. Perhaps I should have mentioned that.

Mr. Foulds: I do not know, because all my information also is secondhand.

Mr. Chairman: I mentioned it before you came, Miss Stephenson, but my information is that the committee still exists. It does not have any members on it at the moment, but the members will be appointed within the next few days and it will continue to prepare its report.

Miss Stephenson: If I may respond, because I am concerned about that committee, I have looked at the amount of information that has been collected since the interim report was provided, and I have a horrible suspicion that if you guys think you are going to get through that by July 12, you are dreaming in Technicolor.

Mr. Foulds: Good luck to you.

Miss Stephenson: Exactly.

Mr. Chairman: We have had some very valuable and pertinent information since the interim report and, of course, events are speeding along as well.

Mr. Foulds: Could I make one other point? I think it would be wise for us not to meet next Thursday, because it is budget week. I have a kind of self-interest; I am replying to the budget on Thursday. It might be wise for us to meet two weeks from today.

Mr. Chairman: The clerk has questioned in my ear whether Treasury would be prepared to meet with us even by next Thursday too. I thought they might. What do you think, Miss Stephenson?

Miss Stephenson: I think it would be difficult. That is what I suggested. They will be busy, but they will not be as busy next Thursday as

they are today. Probably what we should do is request of them their earliest attendance, which is probably going to be two weeks from today.

Mr. Chairman: The point I was trying to make, Mr. Foulds, was that perhaps, unlike on an issue like free trade, we need an ongoing relationship with Treasury for structural assistance and advice.

Mr. Foulds: Sure. No question.

Mr. Chairman: There is no doubt that if we were simply to be their lapdogs, there would be no purpose in our existence and that we should be getting outside assistance in the form of tax advice, economists, people from the labour movement or wherever.

11 a.m.

Mr. Morin-Stran: Obviously we have a very wide scope of agenda potential before us. In the first several meetings, we must have some determination of where we want to go with this committee, at least in the shorter run, and the development of a focus for which areas we are going to be exploring foremost as we start off.

One of the problems, it seems to me, is that the task sounds so big and yet we are allocated only one meeting per week. I presume, being a standing committee, there is no intention at this time of us meeting during recesses; the budget certainly does not indicate that. That is perhaps unrealistic.

As well, it is important that we operate with some independence from the Treasury. While we will undoubtedly be spending a lot of time discussing the financial position of the province with Treasury officials, if we are going to be able to do something of significance in assessing the province's financial position, it is important that we have some talented people hired on a full-time, permanent basis by this committee, reporting to this committee. We need people who have the expertise to understand tax legislation. We need somebody with expertise in tax accounting and somebody with expertise in the legal side of tax legislation. We also need some economic expertise, but most important, we need expertise in the area of understanding numbers, understanding finance generally, because this is a very complex subject. It is a subject that most members undoubtedly will lack familiarity and previous experience with.

As well, the public has extreme difficulty in understanding finances. Any number bigger than \$1 million is a huge. The relative scope of various numbers that get thrown around in the press and in public discussions is totally beyond the comprehension of most people. We have to have some method of bringing what we are doing down to understandability to the general public. That is why we have to look a little more closely, particularly at this budget that has been proposed and what we should do in terms of support for the committee.

Mr. Bossy: I have a short question to John; it goes back to the standing committee on procedural affairs, when we discussed the Ontario Economic Council. I see the role of this committee as carrying on the role of the Ontario Economic Council in looking at some of the suggestions within here and knowing that when a decision was made, we did not feel the Ontario Economic Council was serving the government in what it needed or looked for except in a biased way. That was the feeling that most members had at the time.

This committee, being an all-party committee performing some of the duties that would have been expected from the Ontario Economic Council, could play that role now and be very useful to the government and to the Treasurer. There is the request that the Treasurer come forth with an economic and fiscal outlook statement once a year; when he makes that statement, the committee's input into that report could be fairly extensive, and the research this committee would have to do, including meeting with various groups, could provide that for the Treasurer.

This is where I see the role of this committee as being very useful to offset what was once out there as an Ontario Economic Council but not providing the information that the government needed. The council was more a glorified group of people out there--I do not want to go too far--that was regarded by most people in the province as being a very partisan type of situation in that it would not ruffle too many feathers.

This committee could end up ruffling a few feathers and making known to the Treasurer some strong opinions that exist out there beyond the reaches of the Treasurer. We could go out and find those problems and try to flag them for the Treasurer. Looking at the interviews which the Treasurer previously had, an Ontario Economic Council is listed there. But I am wondering what kind of input into the budget it really had. That is just a comment.

Mr. Chairman: John might respond to that.

Mr. Eichmanis: It seems to me that the Treasurer operates within a certain constraint, and that is the advice he gets from the Treasury people. Of course, the committee is not bound to take any group's advice; it can make up its own determination. In a sense, the committee is far freer to accept or reject advice than the Treasurer perhaps is. Therefore, the committee's recommendations could be quite different from those of Treasury.

Of course, it would be up to the committee to decide what groups or what individuals it wanted to hear from. The committee always has the discretion to do that. One way of doing it is maybe to ask everybody who wants to make a submission whether he can do so, but you will then reserve the right to hear from the people you actually think are the ones you want to hear from. You do not deny anybody the opportunity to make a submission or to make a point to the committee, but because of time constraints, you will hear only certain individuals and you will make that known to the individuals or the groups concerned. That is a way to manage the overflow or the rush of people coming in and talking to you. That is just a suggestion.

If I may just make a comment on the question of staff, I agree with the comments that have been made, particularly Mr. Morin-Strom's comment that it is a very difficult process to take all those numbers and all those complicated figures and try to translate them into ordinary language. If I may be so bold as to express a self-interested statement, the research staff of the library have over the years developed an ability to communicate complex issues in a straightforward, commonsense way. I would encourage the committee not to dispense with the services of the research service for that reason. Do hire outside when you need it, but do not forget that I think we have performed very well in this regard and that we can continue to play a role in the committee's work.

Mr. Chairman: Thank you. Apparently, the research staff may prepare us a list of potential contacts. It is obviously premature to fill out that staff list, but we certainly will continue, I am sure, to depend on the research staff. They have given us excellent service in the past.

Mr. Cordiano: It is important that we look at the mandate as it is described in this document, with particular reference to some of the items that are referred to, such as holding prebudget hearings, reviewing tax matters and looking at some of the recommendations that have been made.

Mr. Chairman: Which document?

Mr. Cordiano: With the discussion. However, I would hate like hell to see us get bogged down in some of the detailed numbers--

Miss Stephenson: Nuts and bolts.

Mr. Cordiano: --the nuts and bolts, when that effort is being put forward by people in Treasury and people in the Ministry of Revenue. That could turn into an exercise in futility. What we should have is a structured agenda allowing for each of these aspects to be reviewed within a certain time frame.

11:10 a.m.

In addition to that, it is crucial not just to look at a one-year time frame, the budgetary process on an annual basis, but also to look at some of the relevant economic problems this province is facing in a structural sense over a longer term and to allow some time to develop that process over a three- or five-year period. Really, part of the problem we are facing in this province, in this country and in North America in general is that we plan on a short-term basis. We can expand our mandate somewhat, albeit within the constraints we do have, to look at the longer-term question, to look at the economic structure of this province and to try to formulate a strategy for the government over the longer term.

That could be a very useful exercise for this committee, apart from looking at the annual budgetary process in detail and at tax and revenue requirements and expenditures. We have to look at the longer term. That might be an area we expand on. I am not certain what the time constraints will be and how we can accomplish that, but we should include it in our mandate at some point.

Mr. Eichmanis: That is a very good suggestion. This would be an area where the committee could consider hiring someone to do a paper or a study on some particular aspect that the committee is interested in.

As you know, economists do not do things in 24 hours or in two weeks, but if you did anticipate that over a number of years you wanted to get some good background on something, you could commission someone who was formerly with the Ontario Economic Council, the C. D. Howe Institute or wherever to look at a particular aspect of Ontario's economy that the committee was interested in and could ask for a paper or a study within a year of commissioning it. That would then be the basis for your discussions on that topic.

Thus, you could have long-term projects going on that had been commissioned, which would not interfere with the regular responsibilities of the committee in the budgetary process. Once that commission had been submitted, you would then take a block of time and deal with that matter. Both the short term and the long term could be accommodated that way.

Mr. Cordiano: My worry is that we would fall into the budgetary process and try to duplicate what they are doing in Treasury during the course of one year. It is going to be very difficult to try to duplicate that and to get down to the nuts and bolts.

I do not think we should do that. We should look at the macroeconomic performance of this province and try to pinpoint some of the very real problems we are facing in the north and in other sectors of the economy.

Mr. Eichmanis: I think the Treasurer (Mr. Nixon) and the committee envisage that the committee would be looking at the nuts and bolts if it were doing estimates, but since the committee does not have a mandate to look at estimates, when it looks at economic policy, it does look at the macro. As I pointed out earlier, at the federal level the committee recommended the fiscal framework committee. That is clearly a macro kind of overview of the economy.

As you know, the estimates at the federal level are arranged in a different way so there is a volume 1, which is a macro kind of overview of government expenditures and so on. What is envisaged is a macro rather than a nuts-and-bolts look at things at that level. If you were doing estimates, it would be a different matter; then you would have to go into nuts and bolts. But in the mandate as it now stands with the committee, it would be a macro view of things, as I understand it.

Mr. Chairman: It could be a blessing to us that we have not been specifically mandated to do estimates, then.

Mr. Eichmanis: Yes, it may be.

Mr. Haggerty: One of the recommendations that spells out what John was saying is, "It is recommended that the Treasurer provide an annual Ontario economic and fiscal outlook to the House each fall, and that the proposed standing committee on economic and fiscal affairs receive this statement."

As I interpret that, it means we should then delve into that in more depth, and I suppose we would need further special studies done on it by experts in the field. You refer it to the particular body that you want to review it or to provide us with background information, though the Treasurer may have it in his office.

I suggest that the library research people we have within the administration of government have some good talent. We should make every use of them now. They can start preparing some of these things on the questions that were asked today and give us background information that may lead us in that direction without overstepping the Treasurer's commitment to his ministry. They say they are going to send another group on a witchhunt to go after the treasury in that manner, and I do not approve of that. We should be careful now we approach that level of investigation. You can overdo it sometimes and cause more problems than good.

The mandate is put out in the Treasury report last fall, and those are the guidelines we should be following.

Mr. Foulds: That is not written in stone, and even the Treasurer was not entirely happy with it.

Mr. Haggerty: Who knows what is going to be in that report this fall, though? I do not want to prejudge it until it comes.

Mr. Cordiano: I do not think our mandate is to be an investigative body on what Treasury is going to do. We are here to do more than that.

Miss Stephenson: While I agree that we should not be specifically an investigative body and that the concept of the global, macro vision is delightful to contemplate, I am not sure we are going to be able to avoid totally the kind of medium-micro examination of a number of expenditure developments in various ministries that may concern us. This committee should have the right to investigate or examine that in terms of its overall picture and its total responsibility. Therefore, we should not exclude that capability.

I really think we are perhaps being premature in suggesting that there are certain limits we should place on ourselves today. We should think very seriously about what has happened as a result of this discussion. When we come back and listen to the kind of presentation that I know Treasury can make, then let us make the decision about the way we organize ourselves and the way we structure what we want to do, leaving enough space always to do some of the things that may come up as specific problems we need to face. During that time we should not depend on anybody except the superb research staff we have in the library. We cannot make the kinds of decisions about whom we are going to need until we know what we are going to do.

Mr. Haggerty: I do not want to see a \$20-million report that says, "Leap by faith."

Mr. Chairman: I am going to recognize Mr. Foulds. If anyone else has anything really pertinent to say, I will entertain a comment, but I think we are coming to some understanding of where we are going.

Mr. Foulds: This may be a first, but for the second time in one day, I agree entirely with my colleague, Dr. Stephenson.

Miss Stephenson: That is awe-inspiring.

Mr. Foulds: This is the first time in my 15 years and your 10 years.

I want to emphasize that one point. We should not restrict ourselves from some investigative function. It is really important that we keep this avenue open in two ways. First, if there is a specific economic problem that faces the province and no other vehicle is readily available to investigate it, then this committee should be available.

Second, the thing Dr. Stephenson mentions that I think is really important is that you not take the nitty-gritty of expenditure but that you look at the pattern of expenditure to see where it is exploding, why it is exploding, whether there is a rationale for it and whether it is going to be reigned in in the future or continue to expand. I can see that as a very important part of our function.

I am pleased by the amount of consensus there is in the committee. We should probably think about things for a couple of weeks. Maybe we should do that high school exercise of writing our own thoughts down about what we would like to see the committee accomplish, hear what the Treasury people have to say to us perhaps two weeks from today and have the library research people continue to work for us--I think that is an excellent idea. But we must not limit ourselves when it comes to the budget discussion. We should not limit our budget so that we cannot get outside help if and when we need it.

11:20 a.m.

Mr. Cordiano: My comments were generally reflective of what Miss Stephenson said earlier in that we can spend all our time in hearings. We do not want to do that because we are going to duplicate everything that is going on in Treasury. We have to allow some space for some of the investigative work. My interpretation of investigative is that we get into the nuts and bolts of how expenditures are unfolding in a particular area. We can do that but we do not want to deal with that entirely over the course of a three-month period, let us say.

Miss Stephenson: But we should not limit ourselves.

Mr. Cordiano: No, that is what I am saying. We should be flexible enough in our schedule to allow for some of that to take place and to look at three or five years down the road.

Mr. Haggerty: I am looking at May 13 when the budget will be brought down. If you look at the guidelines set down in the Treasurer's comments on the standing committee on finance and economic affairs, we may get into a corner and have to review all the tax legislation arising from the budget and prepare recommendations.

That is quite a task in itself. We may have to bring in experts and take a look at the flat tax rate to see if that does not bring in more equity to the taxation of individuals in Ontario. I think it was Mr. Foulds who mentioned the loopholes that are there now which certain individuals or corporations can get around and not pay much in taxes at all or not pay their share.

We will have to take a look and we may say, "Yes, we will have to bring in the experts." There are some experts in the legislative library research department. Let us get some input from them. They can get the background information and then we can make that decision. I am not prepared today to say I am going to spend money on research because if you get into that in depth, then you will probably be looking at travelling to other communities or other countries, such as the United States.

Much of the new policy that has come out is geared to the style of government in the US, where they can review the president's budget. You have to remember that their budget is always one year ahead. We deal with it when the money has already been expended. We cannot really accomplish anything unless the government changes its tax policy and says the budget the government introduces next year will be for the 1988-89 year, always one year ahead.

Then we could have a committee that can accomplish something, because then we can review all the expenditures or proposed tax changes that come forward. We are doing it after the barn doors open. What can we actually do? If you really want to get into it, the whole tax structure has to be changed. They have to advance that budget one year ahead, always a year ahead, forecasting.

Mr. Chairman: This is our chance to do something of that nature because we are working, starting now, towards the 1987 budget presumably. John, your last word.

Mr. Eichmanis: It may be useful if the committee were to travel to Westminster. As I pointed out earlier, the Treasury and Civil Service

Committee has a similar function in Britain, much the same mandate as this committee has. I am sure they have useful insights into how the British committee works.

Mr. Chairman: I thought the British committee was no longer working.

Mr. Eichmanis: No, that was when it did the estimates. The expenditure committee is gone, but now there is a Treasury and Civil Service Committee that has this macro mandate rather than the expenditure mandate.

Mr. Chairman: We may do such a triumphant job that other jurisdictions will be coming here to see us. In any event, we cannot come to any conclusions today, obviously.

Barbara Cotton is going to do a little précis on some of the ideas, and that may be part of your exercise, Mr. Foulds, on writing out what it is we want to do. I do not think there is much point in continuing the conversation that we have been having, although it is an excellent one and has percolated a lot of interesting concepts.

There are two matters to consider then. One is whether we should meet next Thursday or two weeks from now. My inclination was to try to get going next Thursday. However, I think I am hearing that it would make more sense to wait for two weeks.

Mr. Foulds: If I could speak to that; from a personal point of view, I will be preparing my budget reply for that afternoon. As Treasury critic for the party it would be nice if I could be here at the first briefing.

Mr. Chairman: Yes.

Mr. Foulds: It is just a very personal situation.

Miss Stephenson: It might be just a bit difficult for the Treasury people to do it next Thursday. I suggest we ask them if the following Thursday would be appropriate for them.

Mr. Cordiano: I tend agree with that view.

Mr. Chairman: It sounds as if it is all-party decision.

Mr. Cordiano: Many of us will be on speaking engagements immediately after the budget announcement.

Miss Stephenson: It is the Mulroney plan.

Mr. Chairman: Is that the Mulroney plan?

Mr. Haggerty: Let us set a date.

Mr. Chairman: That would be two weeks from today.

Mr. Haggerty: Will we have library staff here?

Mr. Chairman: Yes. That will be two weeks from today, May 22. It is always going to be on Thursdays at 10 a.m.

Mr. Haggerty: Is the House sitting that morning too, on Thursday?

Mr. Chairman: Yes, it is private members' day.

Mr. Haggerty: That is going to cause some problems, too.

Miss Stephenson: It simply means we are going to need a substitute for this committee if there is a bill we want to participate in. That is the date we have been assigned by the House leaders.

Mr. Haggerty: It was Wednesday, then it was changed to Thursday. I was not aware of that until recently.

Miss Stephenson: I did not know it was Wednesday.

Mr. Haggerty: It had been set on Wednesday, then it was moved. Perhaps some members may be involved in the public accounts committee or private bills and regulations. They all usually sit on that day. I am sure some members are sitting on two committees.

Mr. Chairman: I know that, Mr. Haggerty. It is a problem for our party, but the time we have been given by the Legislature is Thursday morning. The whips have had to deal with that in assigning committees. That is written in stone. The issue of whether we sit after the session is completed is certainly open to be discussed, so do not book up your summer.

Mr. Foulds: Book up your summer up and let the committee know when you are available.

Mr. Chairman: Let us get back to item 4 on the agenda, which is an interim budget. We have now decided not to meet again until May 22, and it is imperative that we have a budget. The clerk has indicated to me that if we went with an indefinite budget or a budget that did not delineate what we want the money for, it would be thrown back at us. She is prepared to take suggestions for changes that might be made in this budget. I think it is accepted by everyone that the budget is largely the result of guesswork. Obviously, it is going to have to be changed. In view of the circumstances that we find ourselves in, it might be appropriate to pass it.

Mr. Foulds: Why do we not adopt this budget just to give us some operational petty cash, so to speak, for coffee supplies and that kind of thing. When we submit it, we can make the point that we will be submitting a supplementary budget to take into account future staffing needs and other expenses we might entail. We should define that before we submit the supplementary budget as well.

Mr. Chairman: So it could be passed, with that caveat made quite clear in passing it.

Mr. Foulds: I want to call it an interim budget because, five months down the road, I do not want some reporter from one of the newspapers saying, "Finance committee quadruples its budget." We understand this is a coffee, doughnuts and supplies budget.

Mr. Barlow: That is exactly the point I was going to make.

Mr. Chairman: Perhaps we could entertain a motion that this is being passed as an interim budget and that it will be made clear when I present the budget that there will be a supplementary one. So moved?

Miss Stephenson: A significant one.

Mr. Chairman: A significant supplementary budget. All right, I will leave that there--not that they will necessarily remember when I come back. Any other discussion?

Motion agreed to.

Mr. Chairman: Any other business?

Mr. Haggerty: Do we get a refund on our coffee?

Mr. Chairman: I am afraid not.

The committee adjourned at 11:30 a.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

ORGANIZATION

THURSDAY, JUNE 12, 1986



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

VICE-CHAIRMAN: Cordiano, J. (Downsview L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Bossy, M. L. (Chatham-Kent L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

McFadden, D. J. (Eglinton PC)

Morin-Strom, K. (Sault Ste. Marie NDP)

Sargent, E. C. (Grey-Bruce L)

Stephenson, B. M. (York Mills PC)

Also taking part:

McGuigan, J. F. (Kent-Elgin L)

Clerk pro tem: Mellor, L.

Staff:

Traficante, F., Research Officer, Legislative Research Service

Witness:

Individual Presentation:

Lazar, F., Professor of Economics, York University

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, June 12, 1986

The committee met at 10:21 a.m. in committee room 1.

FUTURE SCHEDULING AND FUTURE BUSINESS

The Vice-Chairman: I do not think our colleagues from the third party will be showing up too quickly, so we should move ahead.

Mr. Haggerty: Mr. Chairman, let it be noted that it was 10:21 a.m. before the committee got started.

Miss Stephenson: Can you find another nit to pick this morning?

Mr. Haggerty: Oh, no. There are reasons for it.

The Vice-Chairman: The agenda for today is to discuss our scheduling for the next little while. We had mentioned before that we are going to get confused somewhat with the select committee because some of the same members are on it. In any case, we have to deal with the question of an agenda for this committee--that is, the standing committee on finance and economic affairs--having regard for the select committee that is tentatively scheduled to meet when the House is not sitting, which will be some time in July and August, I believe.

We anticipate setting up an agenda for this committee for September or October. That is when we will be able to deal with some of the issues that we should discuss today and alternative Thursdays. For the time being, we should determine how much time we need to discuss a relevant agenda for the fall. If we need to do it on alternative Thursdays, fine. If we do not feel that time is essential, then we can carry on with the work of the select committee on economic affairs.

Mr. Haggerty: Apparently there are two committees dealing with the same topic.

The Vice-Chairman: No, they are entirely different topics.

Mr. Haggerty: You have to finalize that report. Am I correct?

Mr. McFadden: That is only on free trade.

Mr. Haggerty: When is that going to be completed? That is where the conflicting things are.

The Vice-Chairman: There is a target date for some time in the fall.

Mr. Ashe: It is 1988.

Miss Stephenson: Last week we decided we would try to have it done some time between August 1, and August 31. That is the time frame we set for ourselves, if that is feasible. We do not know at this stage of the game. We have to know how much time the other members of the committee are going to have to spend on this committee before we can determine what we can do.

The Vice-Chairman: By the same token, however, if we do get that work done, the final report will be issued in the fall.

Miss Stephenson: Oh, yes, but our activity would be completed by the end of August.

Mr. Haggerty: This committee will not be sitting through the summer months, so the rest of us can plan some summer events too.

The Vice-Chairman: I would not say that entirely. The question we are having to deal with is how long the House will be in session and what our timetable will be with regard to the two committees, the select committee on economic affairs and the standing committee on finance and economic affairs.

Miss Stephenson: Do you have a clear and uncluttered crystal ball?

The Vice-Chairman: I thought some of the members of the Conservative Party might be able to answer that question this morning. I suppose-not.

Miss Stephenson: Could I move for discussion that this committee sit today and next Thursday? The hopscotching is silly. All it does is confuse us and provide difficulty. That time should give us enough opportunity to try to determine the broad outline of our future agenda and to develop specific agenda items for at least the early part of the committee activity. When we have completed that, the committee on trade policy can be reconstituted and function during the remainder of the Thursdays that the House is sitting. I think we should try to get this done first and then go on to the other activity, or begin the other activity again. Is that a reasonable solution?

The Vice-Chairman: I would like to comment on that, if I might.

This has been discussed with the chairman, the member for Kitchener (Mr. D. R. Cooke), and I think there was some previous discussion in this committee that we probably would need a couple of sessions to determine its agenda. Let us entertain that motion, then. Is there any discussion on the motion that we meet next Thursday?

Miss Stephenson: May I speak to it?

The Vice-Chairman: Yes.

Miss Stephenson: The direction from the House leaders was that this committee meet on alternative Thursdays until the House rose. Then we would do whatever was necessary.

It seems to me that it would be more sensible if we were to concentrate our efforts on trying to finalize that agenda now and getting it out of the way. Then we could really get at the business of trying to complete the final report on trade policy activity.

The Vice-Chairman: That seems reasonable.

Miss Stephenson: A lesson in defiance, I must admit, of the House leaders' suggestion.

The Vice-Chairman: Any discussion?

Mr. Foulds: I support that motion.

The Vice-Chairman: Shall we take a vote? No objections?

Motion agreed to.

Mr. McFadden: Mr. Chairman, I would like to make one suggestion. I cannot remember at which one of our meetings I raised it, whether it was at our scheduling meeting, last week, or whenever.

Before we get into all the detailed, fundamental questions of our jurisdiction, we should get some opinion on that. Perhaps it cannot be done before September, perhaps as soon as next week. Theoretically, we can look at anything we want to on corporate concentration, on which we can have no impact at all except to comment. If we can get some initial opinion on the Legislature's areas of jurisdiction, we can get a better idea of the industries we should be concentrating on; otherwise, we could head off into all kinds of directions.

I myself am not sure about this, because there are areas of both sole and joint provincial jurisdiction. Determining what our jurisdiction is can help us focus on the questions we should be dealing with in respect of those industries.

The Vice-Chairman: That is a good point. Any comments?

Mr. Foulds: I have two points to make. Have we accepted that this is going to be--

Miss Stephenson: No, not yet.

Mr. Foulds: Good. Second, with regard to David McFadden's specific proposal, has there not been a federal trade commission sitting for four or five years examining this very question of concentration? They are late, are they not?

Miss Stephenson: Yes, they are, but they have not really looked at corporate concentration as a specific problem.

Mr. Foulds: And for Ontario. Surely there would be--I hate to invent the wheel again, because I think we do that a lot. Maybe some of our researchers could follow up on David's suggestion to see what has transpired in that committee, and how relevant it is to this issue.

I have a further suggestion. I do not know how other people's schedules are; mine is hectic. However, perhaps a steering committee could be struck, with a representative from each party, to determine which items the members of each party want to see on the agenda. Perhaps that steering committee could meet at least once before next Thursday's meeting so that we have some concrete things to discuss.

The Vice-Chairman: Do we want to structure that now, or will we leave it open?

Mr. Foulds: It is just a suggestion I am throwing on the floor.

The Vice-Chairman: It is probably the best way to proceed. I think that is the custom.

10:30 a.m.

... Mr. Ashe: The steering committee concept works quite well elsewhere. It has worked exceedingly well in the select committee on energy, and its predecessor, the select committee on Ontario Hydro Affairs. It is probably one of the reasons the energy committee works.

The Vice-Chairman: We can use the steering committee procedure on the standing committee on finance and economic affairs as well. I have not been around this place long, but most of the committees I have been on had steering committees.

There is a motion on the floor to elect a steering committee. Shall we entertain representatives of each party at this point or do you want to do that later?

Miss Stephenson: We will share it. Is that all right? There will be times when David will not be able to do it and I will; and times I will not be able to do it and he will.

The Vice-Chairman: That is fine.

Are there any volunteers?

Mr. Haggerty: Toss a coin.

The Vice-Chairman: All right, we will toss a coin.

Mr. McFadden: Mr. Chairman, you are the caucus representative.

The Vice-Chairman: We can discuss that later.

Mr. McFadden: You guys can make a deal on your own.

The Vice-Chairman: Do we need approval of that motion or is there no disagreement?

Miss Stephenson: No.

Mr. Haggerty: I would like to see that in there, then we will know. Otherwise, other committee members will say, "What is going on here?" This way we have some direction. You might say we are still two committees functioning within one organization.

Miss Stephenson: The motion is to appoint a steering committee and then each party can determine who they want.

The Vice-Chairman: Then let us vote on the motion. Those agreed?

Agreed to.

Mr. Foulds: Will you tell the member for Kitchener so that he can arrange a meeting of that steering committee?

The Vice-Chairman: A meeting of the steering committee for some time next week, probably on a Tuesday.

Miss Stephenson: There may be a committee which meets at the same time.

The Vice-Chairman: I believe we are scheduled to have Dr. Lazar before us to give us some ideas about corporate concentration, which we may be looking at. Am I correct in assuming that?

Mr. Traficante: I have no idea. It was just mentioned to me.

The Vice-Chairman: The chairman indicated to me yesterday that we may have a visit from Dr. Lazar but I do not see him here, and he should have been here at 10:30 today.

Mr. Barlow: Who prepared this document?

The Vice-Chairman: This was probably from Dr. Lazar. This was a discussion paper bringing up some of the issues we may want to look at. The best way to proceed is to have our own discussion and give Dr. Lazar an opportunity to speak when he arrives.

Does anyone want to speak to this with regard to corporate concentration? I believe this paper deals with that subject entirely.

Mr. Ashe: It carries on indirectly from David McFadden's concern regarding provincial jurisdiction. What comes to mind is, so what? I do not think we can do anything about any of these questions regardless of what we find out.

Miss Stephenson: There are specific areas in which the provinces have full jurisdiction. They may relate to the federal level in information sharing and other activities, but there are specific areas, primarily trust companies, for example, which have a specific provincial authority. Securities are entirely provincial, if I am not mistaken. Those areas are within provincial jurisdiction and they are things we should be looking at. Do we have any influence at the federal level in the other areas, in banking, for example, and insurance companies, that sort of thing, which have federal charters? Because we have a concentration of those institutions in Ontario, this province surely must have some kind of influence that is not legislated influence, or legislative influence. I guess it is more persuasion and moral suasion, that sort of thing.

Mr. Ashe: That is the whole issue. If we are only talking of financial institutions, we know that the whole damned system is controlled by the major banks and the Bank of Canada, indirectly anyway, over which we have no bloody control. That is the way it works if we are talking about large monopolies within the industrial sector. We can see what goes on every day with the banks with interest rates and all the oil companies change prices the same day, and those kinds of things.

Miss Stephenson: But George, yesterday a policy was announced which permits greater corporate concentration in the area of financial institutions in a way which has not been traditional in this province and this country. I am sure some of the people who have looked at Genstar and others were a little apprehensive when they heard that because there are problems with that kind of concentration. We should be looking at those things.

But is that our primary concern at this point? That is the thing we have to decide. I know we were asked by the House, by the government party, to look at corporate concentration as a matter of concern. But that is not the only area that we should be looking at. Perhaps that is what the steering committee has to decide.

Mr. Foulds: I am approaching 50. I figure I have about 25 active, intelligent years in politics.

Mr. Ashe: We do not like dog catchers in Parliament.

Mr. Foulds: I am not sure it is our job as committee members to go through a sort of second year university seminar on economics. I would very much like for the steering committee to meet and each party propose its items.

As the finance critic for our party, I would really like to take a look at the tax expenditures that were published by the Treasurer (Mr. Nixon), to determine what was in those and what was not in those--

Mr. Ashe: Where all the hidden money is.

Mr. Foulds: Sure. Because one of the things our committee should do in relation to the province's finances is to see where there is legitimate revenue and where there is not legitimate revenue. There has always been this debate on that issue.

Each of the parties would have one or two other issues. I would like to see us put those down and then, at the next meeting of the whole committee, strike our three or four priorities that we will start in the fall based on the list that is submitted from each caucus. For us, now that we have the paper--frankly, none of us has been able to read it carefully--to have an intelligent discussion about it at the present time does not seem to me to be particularly productive. I do not want to be a wet blanket, but that is the way I see it.

Mr. Ashe: It happens very seldom but it has happened again. The New Democratic Party and I are on the same side.

Mr. Foulds: That is twice.

Mr. Ashe: I had better review my position. It was my understanding that the main role of this committee related to the budget and the budget process, which means the post budget and prebudget.

Miss Stephenson: Not necessarily.

Mr. Ashe: Let me finish my perception. I am not saying that everybody agrees; that is fine. There is no doubt that was not the only role, I acknowledged that the first thing, but if you look at the time frame, and that this committee apparently is not going to do anything until the fall, we are already getting very close to the process for the next budget. Keep the time frame in mind.

The area just raised by Mr. Foulds is a very legitimate process leading up to knowledgeable input, if that in fact is what is wanted. I have my doubts about that being the purpose of the government, but that is fine. If we are to have a real process towards the next budget, we have to see all the things that went into the makeup of this budget in a legitimate way. For example, are the revenues legitimate in the forecast as portrayed in the budget? Where is all that money some feel is hidden in the way of shortfall, revenue forecasts, etc.? I do not know how you can just say, "We will wait till the next budget and we will look at that starting next Christmas." By that time it is a farce.

After the process has been gone through for a year and found to work,

then you have other time. That is my view of our role at this point, with the time frame we are going to be allowed to operate under. From what you have said before, Mr. Chairman, we will not be doing anything to speak of until September.

The Vice-Chairman: If I might use the chairman's prerogative to comment on some of these things, the role of this committee, as well as preparing for the budgetary process, is to look at any individual items we would like to look at as a committee. There is no definite constraint on what we can look at. We will decide on the agenda. That is what we are attempting to do here.

There is a role for this committee to look at the entire budgetary process. That has to be commenced some time in the fall.

Miss Stephenson: You will recall that was our first agenda item. We had determined at our first meeting that we needed to have officials of the Ministry of Treasury and Economics here to explain for all members of the committee the budgetary process that is pursued in Ontario and the kind of direction that is taken. We were unable to do that because of the budget one week and the post-budget the next week. Then it was cancelled the week after that. That was what we felt we should start with, so we could have some type of knowledgeable committee to begin the portion of our activities relating to budgetary development, which takes in the kind of thing Mr. Foulds was talking about.

If you look at the terms of reference or the suggestions that were made by the standing committee on procedural affairs and agencies, boards and commissions, the range of potential activities for this committee is very broad. I agree there are some time constraints upon us this year because of the duplication of effort of many members of this committee and of the select committee on economic affairs. These constraints provide a problem and an inhibition.

If the committee could sit three days a week, we might be able to overcome that inhibition, but I do not think that is going to be possible in the next few weeks. I believe we should be trying to ensure there is a process that provides us with the opportunity to hear about the budgetary process that is in place or is intended to be modified. That can be provided by the Treasury officials whom we invited to come.

Mr. Haggerty: Just to follow along what Mr. Foulds mentioned, the guidelines were set out in the budget of the Treasurer, and I think we should stick to them. As we get into that area, we are dealing with taxes, pensions and everything else. These other things will follow that discussion or whatever we want to review. When we get into pensions, we can look at the economic impact they have on the province and even on the government. We want to find out where this money is being funded, where it is being spent and things such as that. We will get into the area of takeovers of certain firms; you mentioned Genstar as one of them. We will probably take a look at that because we are looking at the economic side of it.

Miss Stephenson: We can look at corporate concentration.

Mr. Haggerty: That is right; corporate concentration. Is there any capital in this when it is taken over by a foreign industry? Is Canadian capital going to be leaving this country? Is any of it going to come back in return for the investment being put, say, in Canada Trust? We should follow

the suggestions of the Treasurer. These things will gradually fall into place as we get into them in depth and as we deal with the financial situation of the province, taxes and the whole list of things. It is a rather broad area we can cover.

We should first follow the format suggested by the Treasurer. As Mr. Ashe says, we have to take a look at the budget very closely. We should discuss the new budget later in the year before we start implementing it. We can have some input into it after talking to the public as well.

Mr. Foulds: This is where I diverge slightly from Mr. Haggerty and perhaps Mr. Ashe. It is our responsibility to look at certain economic issues as well as looking at what I call narrow budgetary concerns; they are interrelated. If we accept the Treasurer's agenda, I do not want to be the member of a lapdog committee. I do not say that provocatively. Budgets have traditionally ignored some economic issues. There may be reasons for that, but--

Miss Stephenson: That is what the committee should know.

Mr. Foulds: That is what we should know and investigate. If there is no legitimate reason for it, then we should make strong recommendations to the Treasurer that his budget should deal with some of those broader economic issues.

Let me give you one example relating to the part of the province I come from. As a whole, the province is enjoying what is called buoyancy, growth and so on. Northern Ontario is not. We are suffering a loss of economic activity, a withdrawal of capital and a loss of jobs. That is a very serious matter, not merely for northern Ontario but for the economy of the province.

If there is substantial withdrawal of capital or assets in the pulp and paper industries, then one of Ontario's largest industries, employers and generators of foreign capital goes down the tubes. That has a very serious economic impact on the whole province. The committee must reserve the right to investigate those kinds of things if it decides to do so.

Miss Stephenson: I understand the rules of the Legislature provide for that kind of economy within standing committees.

Mr. Foulds: Yes; there is no question about that. I worry a little about getting on the budget bandwagon immediately, so to speak. The committee should agree what the items are before we begin our meetings in the fall. We know the time constraints Mr. Ashe talked about. We may have to look at some of the budget items first, but we should tentatively schedule some of these other questions.

Mr. Ashe: That is also budget policy as far as I am concerned.

Mr. Foulds: Sure.

Mr. Ashe: I do not disagree with that.

The Vice-Chairman: I would like to comment. This committee's role was to look in advance at the pressing issues that come up in the budget, but there is also room to look at the longer term and some of the broad strokes in the economy. That can be part of the committee's activities without interfering with the natural process of the budget. I suppose it will be up to the steering committee to determine a suitable timetable.

... - In any case, if there are no further comments in that area, I will call Professor Lazar forward.

10:50 a.m.

Dr. Lazar: Will I sit over here?

The Vice-Chairman: Sure. Professor Lazar, thank you for being with us this morning. You will be dealing with the paper on corporate concentration.

Dr. Lazar: Yes. Let me give you a brief background of how this paper came into existence.

I met with Mr. D. R. Cooke on my initiative about a week and a half ago and told him I had certain ideas on what this type of study or investigation should entail. They were based in part on some previous work I had done for the federal government in about 1982-83, when it also looked at the issue.

After discussing this with him for 20 or 25 minutes, he suggested I put my ideas down on paper; they could then be circulated among the members of the committee for feedback, and perhaps guidance, as to where they might go with regard to the task assigned to them in the budget by the Treasurer.

That is how this paper came into being. I gave it to Mr. Cooke yesterday, and he has obviously circulated it to the various members.

This paper basically sets out what I perceive to be the fundamental issues. In no way should Mr. Cooke be given any sort of responsibility or liability for its contents. You will have to ask him whether he endorses it. It is something he had asked me to prepare for him to give to the members of the committee, and I take ultimate responsibility and blame for it.

I will not go through the various points. I just want to emphasize at the outset the four key questions I have set out in the paper in a logical order.

If one is going to look at the issue of corporate concentration and make it more than just a witchhunt, or an attempt to use an excuse to assign blame or prevent further concentration or expansion of conglomerates, one first has to define what is meant by corporate concentration and corporate power, excessive power.

There is an additional point not mentioned in this paper that one should look at. Has there been any fundamental change in corporate concentration and power, or is it just the names of the families controlling large parts of the economy that have changed? We have, in fact, always had this type of experience in Canada.

That is one issue that has to be addressed. What do we mean by concentration? What do we mean by corporate power?

The next issue looks at the operation of the conglomerates themselves. Are they operating to the benefit of the economy and society, the country as a whole and the province in particular? I have set out various questions and issues that have to be addressed there. This goes beyond the question of the shareholders benefiting. It is really a small constituency that I want you to be concerned about.

... The third question goes beyond the conglomerates themselves. How do they interact with other companies, other parts of the economy and other parts of society? What are the spillover effects in these other areas, and are they positive or negative? In weighing the spillover effects against the operation of the conglomerates themselves, one can come to some conclusion whether what is happening to the economy is good or bad.

There is a final point. Where do government policies come into play? There are tax policies, various spending programs, tariff policies and competition policies. Have these acted to encourage increasing concentration, if that has been the case, or the trend towards conglomeratization? Have they tended to offset this, acting as somewhat of a countervailing force?

There is a final question with regard to policy. Are there existing policies or new policies one can introduce to try to either correct whatever problems might exist or perhaps promote a more rapid rate of productivity growth that will improve the competitiveness of the economy, aside from what is happening with conglomerates?

Those are the four issues I see as critical and the progression I would hope you would follow in dealing with this problem.

Miss Stephenson: May I ask Professor Lazar whether the four questions are those he asked when he was doing the study for the federal government in 1982?

Dr. Lazar: The ones I looked at were primarily questions 2 and 3.

Miss Stephenson: Has there been any dramatic change in the situation since 1982 or 1983 which would lead you to suggest that 2 and 3 should be re-examined at this point?

Dr. Lazar: There are three things in particular. First, there has been an acceleration of some of the growth of about six to nine conglomerates.

Miss Stephenson: So you are answering your first question then.

Dr. Lazar: That does not mean there has been an increase in corporate concentration; there has just been a more rapid growth of of these companies. My impression is that it is perhaps more rapid than the rate of growth in the economy as a whole, but I cannot say that with certainty.

The second factor is that there has been an increasing trend to try to incorporate financial institutions within these conglomerates. This was just beginning at that time, and now the trend has accelerated. That brings in another issue.

Miss Stephenson: Now we will encourage it in Ontario.

Dr. Lazar: The third is that we were just moving into, and were in, a recession. We have now moved out of it. At that time, these conglomerates were cutting back on employment. One would have expected, with some of the economic recovery that has occurred in the past couple of years, that they would have made up part of the employment losses. That has not been the case; they have continued to cut back on employment. The question one must ask now is whether this is a trend that is ongoing throughout the economy and whether it is necessary to maintain a competitive position, or whether it is something peculiar to these conglomerates.

Those three factors have changed.

Miss Stephenson: My concern is that since Professor Lazar had examined in great detail this whole area for the federal government in 1982--

Dr. Lazar: It was not in great detail.

Miss Stephenson: But it was in some detail?

Dr. Lazar: Yes.

Miss Stephenson: Yes. I would hope we would not be involved, in whatever we decide to do, in reinventing whatever was examined at that point, but moving from that base, determining where it is we should be exploring this matter right now.

Mr. Foulds: Just a simple question: Is that federal study available to us?

Dr. Lazar: I do not think so. I do not even have my copy. I was not allowed to keep a copy.

Mr. Foulds: Would that not be available to us through the Access to Information Act federally?

Dr. Lazar: I do not know.

Miss Stephenson: It probably is now. We should explore--

Mr. Foulds: If you do not have any strong objections, it would be useful for us to try to receive a copy, if necessary, through the access to information legislation. They may white out 20 pages of it, but at least we can then question you about that.

Miss Stephenson: If not, we can give a copy to Professor Lazar so he can use it for future reference.

Dr. Lazar: It was one of those things where someone had an idea, and I was around, so the Privy Council Office asked, "Why don't you look at it?" I did and basically reported what my impressions were.

Miss Stephenson: Was it the PCO?

Dr. Lazar: Yes.

Miss Stephenson: That may pose a problem.

Mr. Foulds: Excuse my ignorance, and I apologize for being a novice in these matters, but what is your present position and why do you have an interest in this subject? Is this one of your specialties at university?

Dr. Lazar: I have been involved and have done research in the industrial organization area for quite a while. One of my ongoing research interests is the development of industries, the growth pattern of industries and companies. I have an extreme interest in what is happening currently in Canada, the United States and other parts of the world with corporations and the success or failure of major corporations. Why is it that some are able to succeed and others that had large head starts fail? It is an ongoing research interest of mine.

Mr. Foulds: Where do you teach?

Dr. Lazar: I teach at York University.

Mr. Haggerty: That was my question: Which university are you teaching at? So it is York.

Dr. Lazar: Yes.

Mr. Haggerty: Did you not appear before the select committee on--

Dr. Lazar: I did the work on the trade issue.

Mr. Haggerty: Was it in Kitchener?

Dr. Lazar: No; here.

Mr. Haggerty: I remember seeing you.

11 a.m.

Mr. Ashe: I have a statement and then a question for Professor Lazar. I do not need a consultant to tell me that corporations, large and small, found out during the recession that they had an awful lot of overhead and a lot of dead weight and that to survive, they would never let that happen again. That is number one.

What is your feeling, Professor? I expressed my feelings before you came, so you did not hear me, but it may be a little bit repetitive for the members of the committee. How much of this can be--not affected, because it affects everybody--but influenced to any significant degree by provincial government policy?

For example, even in your summary, you talked about tariffs and that kind of thing which, as we all know, is under federal jurisdiction. It seems to me that an awful lot of the items covered either directly or indirectly by most of your points are more properly directed to the federal government than to a provincial jurisdiction.

Dr. Lazar: I agree with what you are saying, but it was the Treasurer (Mr. Nixon) of this province who saw a potential problem with this and who suggested in his budget that your committee look at it. I believe he saw the possibility of the provincial government either developing a position to relay to the federal government or being able to introduce policies. You have to ask him why he did that.

In addition, there may be some possibility of imitating what happens in the US, which has introduced legislation governing companies incorporated in the US that limits or prevents takeovers of these companies. There may be a possibility of introducing provincial legislation along those lines, if that is viewed as necessary.

Miss Stephenson: It may be that the Treasurer was establishing a pre-emptive strike against the potential of the new policies being introduced by the Minister of Consumer and Commercial Relations (Mr. Kwinter). That is very much a part of yesterday's policy statement, and it is troublesome, from my point of view.

Mr. Ashe: It is not in the right direction. Anyway, time will tell.

Mr. Haggerty: He is saying the banks should have more than 10 per cent interest in ownership.

Miss Stephenson: Perhaps the financial institutions could go to another kind of ownership. It is difficult for me to accept, but that is all right.

Mr. Ashe: It is not the right route to go.

Mr. Chairman: I understand Mr. Haggerty has a question.

Mr. Haggerty: No. I was just mulling over Bette's comments on the statement by the Minister of Consumer and Commercial Relations who indicated that he thought the banks should have more than 10 per cent ownership. That may open the door to some difficulties. We had difficulties with the trust companies at 10 per cent. When you get takeovers and buyouts, whatever you want to call them, they cause some serious considerations in the financial institutions.

Miss Stephenson: There are also strong implications for other corporate concentration in the financial institution areas as a result of yesterday's statement. It provides for some brand-new avenues that have not been traditionally supported in this province.

This committee should probably refer to the steering committee the suggestions made by Professor Lazar for its recommendation regarding the future work that needs to be done for this committee by him or others in this area. I do not believe it is appropriate or feasible to determine precisely, this morning, what we will ask Professor Lazar or anyone else to do. We have to make our determination about the pattern of activity that needs to be carried out on our behalf over the next several weeks so we are appropriately prepared to take on our role, whatever it may be, as soon as we have completed our final report to the other committee.

Dr. Lazar: May I say one thing? I have a list of questions which serves as a guide when you have witnesses to try to elicit information from them. When you have done so, you can put it together in your final report and reach the appropriate conclusions. That was the purpose of this.

While I would very much like to be able to do a study, that was not the primary purpose. It is not a matter of, "Here is an outline of the research project I would like to do." It is more at the recommendation of Mr. Cooke as chairman: "We have some questions. Can you provide us with some guidance as to what we should ask or in what direction we should move when the hearings start or when research is being done either in-house or externally?"

Miss Stephenson: I am grateful to Professor Lazar for his explanation. The document is a list of very penetrating questions on the subject, which are terribly important.

The problem is that the committee decided this morning it will appoint a steering committee which will be responsible for establishing the agenda framework for this committee for the future. We have not determined precisely the degree of concentration we will place on corporate concentration. Therefore, although this is a very useful document to have, I do not think the committee is prepared to make any final determination today about what we are going to do with this.

- On behalf of me, I thank you very much for this. It will be very useful.

Dr. Lazar: I do not think Mr. Cooke said that at all.

Mr. Chairman: This was merely intended to take the subject matter which had been alluded to in the budget and perhaps widen it, simply to look at questions and to give us some questions so we can see whether we want to answer them. It is entirely in our hands whether we do and what questions we want to answer.

I understand you have already passed a motion to establish a steering committee to look at that a little more closely, which makes a lot of sense. I simply asked Professor Lazar to prepare this so that we would have a bit of a focus for today.

Miss Stephenson: This will be a very useful document far down the road as well. I am not convinced that we are going to finalize any committee report which is specific in the area of corporate concentration before we have completed the preliminary activity related to the budget. This kind of documentation is extremely valuable to us and will provide us with some guidelines even in the exploration of some other areas the committee may be dealing with.

Mr. Chairman: You are suggesting that anything we do in this area might be long-standing?

Miss Stephenson: I am suggesting I do not know at this stage of the game. The steering committee has been delegated the responsibility to determine the pattern, if you like, the road map, which this committee is going to pursue for the next several months. It is as a result of that kind of determination that we will know how, when and how intensively we are going to be involved in this study.

Mr. Chairman: Are there any other comments?

Mr. McGuigan: One of the things we might think about--and maybe this is ranging too far--is the vast difference between US government policies on restraint of trade and Canadian policies.

Mr. Ashe: You are in the wrong committee.

Miss Stephenson: Put on your other hat. This is the standing committee, not the select committee.

Mr. McGuigan: I am sorry.

Mr. Ashe: Wrong hat.

Mr. Chairman: It is quite easy to be confused.

Miss Stephenson: That is one of the problems we are having.

Mr. Chairman: This is our second meeting of the standing committee on finance and economic affairs. The first meeting--

Miss Stephenson: --more than a month ago--

Mr. Chairman: --looked at the very wide terms of reference we were

given by the Legislature to examine financial or budgetary issues. This meeting is really in response to the suggestion in the budget, which occurred subsequent to the first meeting, that we might be interested in looking at corporate concentration. Trade issues might be involved.

Mr. McGuigan: I think I was on the right track. We put up with a lot more corporate concentration in Canada than they do in the US, and I think we should look at the two systems.

Miss Stephenson: In relative terms, I am not sure about that. Perhaps that is one of the interesting things Professor Lazar could tell us.

11:10 a.m.

Mr. McGuigan: I will give you an example. The industry I know best is the supermarket industry. In Canada, it is dominated by four or five firms. In fact, within approximately the last year, one of the firms has more or less disappeared. Dominion has largely been swallowed up by A&P. The US has regional chain stores. There might be 40 or 50 stores in the Washington capital or 40 or 50 major stores in Chicago, but they do not have national chains as we have.

Our system does one of the things you mention in your book. It allows cost subsidization. If you have a national chain, you might have a region or a store that does not pay for itself, but they take profits from other regions to keep that store going and to keep other competitors out of the picture.

Mr. Ashe: Believe it or not, most of our chains do not operate coast to coast. It is relatively regionalized. In comparative terms, I have to agree with Bette. You will find bigger operations in the US, and when you divide by 10, they are more concentrated than we are.

Mr. McGuigan: Western Canada is different from eastern Canada. I admit that. It is hard to compare them because of differences in population.

Miss Stephenson: There is eastern Canada, western Canada and central Canada.

Mr. Ashe: Ontario and Quebec are different from almost everywhere else.

Miss Stephenson: We may be different from the US, but eastern and western Canada are not subjected to nearly as much national corporate concentration in that industry.

Mr. McGuigan: We have little chains that started in southern Ontario, Gordons stores and, around Guelph, Zehrs stores. They each had four or five stores, but they are all now part of Loblaws. There must have been a reason why those four or five stores thrived in a particular area. They were reacting to the local conditions, but now they are all part of Loblaws.

Miss Stephenson: Doing local purchasing and local selling.

Mr. McGuigan: Not very much of those. It is mostly centralized.

Miss Stephenson: Zehrs and Gordons were doing a lot of local purchasing.

Mr. McGuigan: Yes, but now they are all part of Loblaws.

Miss Stephenson: The Maritimes and western Canada seem to be able to manage that better than central Canada.

Mr. Cordiano: With regard to the Toronto Stock Exchange or any stock exchange, I have not had a chance to read this, Professor Lazar, but since regulation of the stock exchange is under provincial jurisdiction, does that play any role in what we might do with corporate concentration? Looking at who owns what is a question of shareholdings and that sort of thing, but with regard to the way the stock exchange is structured and some of the changes or reforms that have been made, how does that impact on corporate concentration?

Dr. Lazar: There are rules regarding timing information for takeovers. Then there are other rules for new listings, new stock offerings and perhaps policies to try to encourage small, specialized investment banks or brokerage houses that will bring forth small company stocks to the public, either through the TSE or some electronic system. If you want to combat that concentration, one emphasis might be to try to encourage the creation of smaller companies and make it easier for them to go public.

In another context I found that an important difference between Canada and the US, a factor that tends to inhibit the growth of small or medium-sized companies in Canada, is that there are numerous regional brokerage houses in the US dealing with the smaller companies and able to assist them in going public. We do not have that in Canada. We now have a move towards larger brokerage houses. In order to survive the foreign competition, we are moving even further away from any system of small, specialized regional brokerage.

Mr. Cordiano: That is something we could look at as well. I hate to tie the two committees together, but any new trading agreement on the horizon will inevitably impact on corporate concentration to some extent. We would have to bring into focus the area of corporate concentration and how it impacts on firms doing business in Canada.

Dr. Lazar: That is part of how you define concentration. What do you take into account? Is a large size necessary to survive in a new trading environment or a new international economic environment?

Mr. Chairman: I read in this morning's Globe and Mail that Barbara McDougall feels what we do at the stock exchange affects free trade negotiations, which it probably does.

So I am clear in my own mind and sure of the directions from the committee, could I revert to the discussion that occurred at the opening? The House leaders wanted me to report back to them some understanding of the scheduling that would be appropriate, in view of the fact that the select committee on economic affairs needs to have a final report done soon.

The select committee has indicated it would like about four weeks subsequent to the sitting and would like to have its report done some time in August. If we were to do a report on corporate concentration and jigsaw that in with that committee, we would start in seriousness some time after the end of the work of the select committee and we could aim for an interim or final report before we start working on the budget in October.

I understand you have passed a resolution to set up a steering committee that will meet within the next week and report back to this committee next Thursday. At that time, this committee will make a decision.

... - Mr. Ashe: There will be a representative of each party plus you, Mr. Chairman.

Miss Stephenson: Mr. Chairman, it would probably be as well if you were to report to the House leaders that we have not followed their pattern. We are suggesting that this committee meet this week and next week and not switch back and forth.

Mr. Cordiano: That was not exactly it. Perhaps you could shed more light on this, Mr. Chairman, but it was fairly flexible. We have to give the House leaders an indication of where this committee stands so that the other committee can meet. It is like the chicken or the egg; which comes first? We were able to resolve that.

Miss Stephenson: The House leaders did make the suggestion that we do alternative Thursdays.

Mr. Ashe: For the next couple of weeks. The big thing is that we acknowledge this committee will probably not function before September. We will have a meeting or two to finalize what we are going to do and give some staff direction, but we probably will not meet until September, after the other committee finishes its agenda.

There are diverging opinions on how much time we will have, considering we will start only in September, to get into issues that are too far afield from the overall budget process. As we know, that process goes beyond just numbers and the paper called "a budget." That is what the steering committee, and you will be part of that committee, will discuss and get back to us on next week.

Mr. Chairman: All right. I do not wish to reopen the whole debate because I was not here for it. I apologize, but I had a resolution on in the House. Was a date chosen for the meeting of the steering committee?

Mr. Cordiano: No. That should be determined, and we can get back to each caucus with a date.

Miss Stephenson: All we did was move and pass a resolution that the steering committee be established. We have not determined the personnel of the steering committee as yet. There was some discussion within your party and we had some discussion within ours. I am not sure whether you have decided or not, but each party will come up with its kernel of representatives for the purpose of the first steering committee meeting. We felt that should take place within the next week, so the steering committee can report to the committee as a whole on Thursday of next week.

Mr. Chairman: The presumption is that this committee will meet again next Thursday at the same time?

Miss Stephenson: Yes. We agreed to that earlier as a motion.

Mr. Cordiano: Yes. We passed a resolution.

Mr. Chairman: Thank you. I do not know of any other business that needs to be discussed. Mr. Traficante has prepared a paper on the very issue of restructuring the financial system.

Mr. Traficante: This is something I prepared last year before the select committee began its process of looking at trade. To some extent, it is out of date. Some things have occurred since then. However, in terms of actual legislation, there has not been any new legislation to change the argument and presentation I have provided.

What has changed is that the federal government has taken several different initiatives and presentations as to what should be done in terms of restructuring financial industries. That information is not included in here, but in terms of actual things that have been done, decisions or legislation, it is up to date.

It looks at the restructuring of the financial system during the last five years, some of the forces which have brought about that restructuring and some of the possible implications for public policy. It does not focus on the question of corporate concentration, but one of those is part of the things discussed.

Miss Stephenson: It should be read in conjunction with the Dupré report.

Mr. Traficante: The Dupré report is much more comprehensive than this attempts to be.

Miss Stephenson: In the usual manner of our friend Stefan, it is very wordy.

Mr. Traficante: This was designed to be an introduction to the issue for someone who is unfamiliar with what is going on, with the terminology and with the kinds of processes involved. It is purely an introduction and a survey of the area. It is not intended to be anything more than that. I hope it is useful.

Mr. Chairman: I am sure it will be very useful to us. I am trying to make contact with the chairman of the federal committee which is looking at corporate concentration. We have already ordered its transcripts.

Miss Stephenson: That was one of the suggestions made this morning.

Mr. Chairman: We hope to avoid any duplication.

I want to thank Dr. Lazar for being with us this morning, partly out of his own interest in the subject matter and partly because I invited him here out of a desire to have some thought put into thrusts we might wish to pursue.

See you all next week.

The committee adjourned at 11:24 a.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
ORGANIZATION

THURSDAY, JUNE 19, 1986



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

VICE-CHAIRMAN: Cordiano, J. (Downsview L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Bossy, M. L. (Chatham-Kent L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

McFadden, D. J. (Eglinton PC)

Morin-Strom, K. (Sault Ste. Marie NDP)

Sargent, E. C. (Grey-Bruce L)

Stephenson, B. M. (York Mills PC)

Clerk: Mellor, L.

Staff:

Bond, D., Research Officer, Legislative Research Service

Traficante, F., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, June 19, 1986

The committee met at 10:12 a.m. in committee room 1.

ORGANIZATION

Mr. Chairman: Perhaps we can get started now.

Mr. Cordiano: Do we have to do that?

Mr. Chairman: Yes, we do.

The agenda this morning is basically for the chairman and the clerk to receive final instructions from the committee.

First of all, perhaps I should report to the committee on the results on the steering committee meeting which was held on Tuesday to receive final instructions from the committee as to what I should report back to the House leaders and, finally, to take a look at future plans.

The steering committee met on Tuesday. The minutes of that meeting are in front of you. Essentially it was decided by Mr. Foulds, Mr. Haggerty, Mr. McFadden and myself that this committee should not seriously tackle the issue of corporate concentration until September, starting regular sessions in approximately the second week of September and working steadily on that through to the return of the House in October. At that time, we would move to dealing with the budget papers and start moving towards our work on the 1987 budget.

We have left open the issue as to whether we would actually have a report on this in October. It was thought that we should have some research done prior to September, basically on areas of jurisdiction. Especially in view of the fact that the federal government is also looking at this issue.

Subject to what is decided this morning, we have suggested that the research people be instructed to look at jurisdiction and have a paper ready for us by approximately the July 14.

By way of diversion, before even getting into that I should have introduced to you David Bond, who is joining the research staff as of next week. He has a background in these very topics and comes to us from the Japanese consulate.

He will be a great help to us, particularly to the extent that there is overlapping work between this committee working on corporate concentration and the economics committee with Mr. Traficante continuing to work on free trade. Unless Mr. Haggerty or Mr. McFadden wants to correct anything I have said with regard to that decision, that is the report of the steering committee.

Mr. McFadden: The only clarification which I think Mr. Morin-Strom raised with me privately was just the start week in September. I am trying to recall the date we were projecting for a start. Remember, we have an early Labour Day and, as we discussed, we have a caucus. I am sorry I do not have a calendar.

Mr. Chairman: September 1 is Labour Day, which is a Monday, so the eighth and the ninth are a Monday and Tuesday.

Mr. McFadden: That is when we would have our caucus, as I mentioned to you.

Miss Stephenson: September 7, 8 and 9.

Mr. McFadden: That is right. We could start on the Wednesday, or the next week. That would not be a problem, but I was not sure from reading this how the clerk had interpreted the second week in September as far as the starting date is concerned.

Mr. Chairman: Maybe that should read "meet during the second week." I know we discussed both Conservative and New Democratic Party caucus meetings and I know there is a Liberal caucus meeting planned for September but I do not when.

Mr. Haggerty: I do not think we have finalized it yet.

Mr. Chairman: No. We do not even have a date, but I think it should be presumed that any full caucus meetings that are planned by any of the three parties would pre-empt the committee meeting. We just will not meet during those meetings.

Mr. McFadden: All right. Pending that, this reflects our discussions.

Mr. Chairman: If there is no further comment on that, perhaps some time during the next two hours I should be dispatched back to the House leaders to report to them. This is the day they wanted me to report.

Mr. McFadden: We are all set then.

Mr. Haggerty: Will that interfere with you, David? Will that interfere with your leadership convention or whatever it may be?

Mr. Barlow: Oh, come on.

Mr. Chairman: The NDP?

Miss Stephenson: It is just for the biennial annual meeting.

Mr. McFadden: That runs from Thursday night until Sunday, so I would not worry about it.

Mr. Chairman: September 19 and 20?

Mr. McFadden: It starts on the Thursday.

Mr. Chairman: But that is not concerning you.

Miss Stephenson: No. It is the main caucus that concerns us.

Mr. Haggerty: So you are all right in that area.

Mr. Chairman: We are all right except that apparently all three parties are going to want some time off during that month so maybe it will not be as busy a month as we thought. I gathered a feeling from the steering

committee meeting that they did not want to meet in August, except possibly for housekeeping purposes maybe once or twice.

Mr. McFadden: I do not know if we need to include this in the report, but perhaps when you meet with the House leaders you might request the right to sit one day in August. Although I think in our discussion we indicated we did not expect to be meeting in August, if there is a need for the committee to meet to decide on some strategy or on who we wanted to see or something, we could at least have the right to do it that month.

Mr. Haggerty: Maybe we should have two days in August some time before we sit down to our full discussions in September.

Mr. Barlow: I would agree. In one day, you cannot accomplish a great deal around here.

Mr. Chairman: I would hope that we could be given as much opportunity as possible for discussion in that area.

Mr. Cordiano: The problem is that the schedules are all being established so if you do not request time now you will not get any.

Mr. McFadden: That is right. We should request a time but leave it somewhat indeterminate.

Mr. Cordiano: If we do not use it, then we do not use it.

Mr. Haggerty: If you are going to be here, if your committee is going to be sitting, you could work it in. Only about one of us, myself, is not on the committee now. There are one or two of us who could be here--

Miss Stephenson: Jim Foulds as well.

Mr. Haggerty: --to follow your sittings.

Miss Stephenson: If it is early in August, he will not be here anyway.

Mr. Foulds: I will not be here for the first two weeks in August.

Mr. Cordiano: You mean you are getting a holiday?

Mr. Foulds: When I was in this crazy business in the early 1970s, I did not take a holiday for five years in a row.

Mr. Cordiano: I do not want to hear about it.

Mr. Foulds: In 1977 I decided that was not good for one's mental health. Actually, it was 1978. I have taken one every year since and see how effectively I operate?

Miss Stephenson: You really do not want a critical diagnosis, do you?

Mr. Foulds: Are you a psychiatrist?

Mr. Chairman: I was on a phone-in program a couple of weeks ago and a lady said she was all in favour of the doctors because politicians did nothing but go on vacations.

Mr. Barlow: She got her point across that she was in favour of the doctors.

Mr. McFadden: Somebody has to show me how you can get more than a week at a time. I have not figured it out since I got here.

Mr. Chairman: Perhaps we should have a resolution of this committee endorsing the decisions of the steering committee.

Mr. Barlow: I would be very pleased to move that the report as presented be adopted, with the possible addition of allowing us an extra couple of days at our discretion in August.

10:20 a.m.

Mr. Chairman: All right. The next decision has to be when I should go to the House leaders.

Mr. Haggerty: On bended knee.

Mr. Chairman: On bended knee. The only other topic we have--I am sorry; you moved that motion. Is there any discussion? All in favour? Opposed?

Motion agreed to.

Mr. Chairman: The only other topic is what we would be talking about in that context. I would be open to hear some discussion.

Miss Stephenson: Have we already begun the examination of the areas of jurisdiction so that those are clarified for us?

Mr. Traficante: One of our lawyers is going to prepare a paper for the July meeting. From my understanding of what was decided at the planning committee session, several of the ministries will be invited to that July meeting and they will, in turn, present their opinions on the same subject.

Mr. Chairman: We will obtain help from the Ministry of Consumer and Commercial Relations, which had already been looking at the problem and accepted our invitation to become involved with this.

Mr. Foulds: We are going to invite Treasury and the Ministry of Industry, Trade and Technology as well?

Mr. Chairman: Treasury? Yes eventually.

Mr. Foulds: Let us do it.

Mr. Chairman: Frankly, we have invited them and they said they could not do it in the month of June and, since the committee does not seem ready to proceed that quickly anyway, I said later was fine and they said fine.

Mr. Foulds: Let us invite them specifically for our July date.

Miss Stephenson: What is our July date?

Mr. Foulds: We have a one-day meeting in July.

Miss Stephenson: One day in July? What is the date?

Mr. Chairman: The date we talked about was July 14.

Miss Stephenson: Oh, no. That is the day I leave.

Mr. Chairman: That was discussed in a rough sense because it was a Monday that would seem to fit around the work of the economics committee.

Mr. Foulds: We assume that the House will not be in session then.

Mr. Haggerty: There is some consensus among the House leaders that we will be sitting the first two weeks in July.

Mr. Foulds: I do not think that there is any consensus on that.

Mr. Haggerty: The way the order papers are today, you can probably look forward to even longer than that.

Mr. Foulds: Except, the "must" list is three bills.

Mr. Haggerty: I do not know. I said I could not be here on July 8, for sure.

Mr. Chairman: Perhaps I can open that discussion. The reason the subcommittee fixed on July 14 was that the weeks beginning July 14 and 21 are the two weeks the Select Committee on Economic Affairs is looking at to arrange a trip to Washington. Likely, it will be the week starting July 21.

Mr. Morin-Strom: They have to report by mid-July, according the resolution of that committee.

Mr. Chairman: It was suggested that it might be mid-July but there is some suggestion that the House may still be sitting in mid-July. We have discovered that Congress is going to sitting into August this year so the likelihood is that there will be personnel available all through July and, in order to hedge our bets on what the House is doing here, we are looking at the third week of July more closely than the second week.

Mr. Haggerty: They are heading into elections there this fall and they will be back to their ridings.

Miss Stephenson: No, not until August.

Mr. Chairman: That is not the indication we are getting. They have a legislative backlog, too.

Mr. Cordiano: Why do we not just pick a date, assuming the House will still be sitting?

Mr. Foulds: Will still be sitting?

Mr. Cordiano: Sure.

Miss Stephenson: In August?

Mr. Cordiano: No, early July.

Mr. Foulds: I do not think we should sit while the House is sitting.

Mr. Chairman: Do you want to explain that to Joan Smith?

Mr. Cordiano: I do not see why not. We sit on a Thursday.

Mr. Chairman: Thursdays are fine for going to Ottawa, but Washington is a little different.

Mr. Cordiano: I did not mean that. I meant for this committee to sit one more day as opposed to meeting in the middle of summer or whatever. I do not know what date you are talking about; July 14, you mentioned, right? What is the difference in meeting a week or two weeks from now, and July 14?

Mr. Chairman: You are right. The research committee could have something ready for us.

Mr. Traficante: Whatever date you want is fine for us.

Mr. McFadden: If we could do it a week before, even if it were in the latter part of that week, whether we are sitting or not, it would be of some help.

Mr. Foulds: Can I suggest that if that is towards the end of the session and we are dealing with a number of crises, this committee will not have a very productive, informative session in those circumstances and that is basically what happens towards the end of a session.

Mr. Cordiano: If we are sitting towards the middle of July, none of the committees is going to be very productive.

Mr. Foulds: Then why sit, if we are not going to be productive?

Mr. Cordiano: We are talking about sitting one day as I understood it and, therefore, we were going to look at a particular question. Is that the reasoning?

Mr. McFadden: Areas of jurisdiction.

Mr. Cordiano: I think we could accomplish that within a day.

Mr. Foulds: If I may say so, I think that is the crucial thing this committee has to decide: if there is jurisdiction. If you want to make decisions about the future of this committee and its work, I do not think you should fly by the seat of your pants. What I am afraid of is that if we are in the last days of the session--and we all know what those days are like--we are all a little cranky and tired and we do not make good decisions. The day I foresaw was a day where we looked at the material that was presented to us and we made decisions about what we examine.

Miss Stephenson: Would it be possible, following that kind of pattern, for this committee to sit on Thursday morning next week? The House will still be sitting. There will still be private members' public business at that point. We could then hear Consumer and Commercial Relations' interpretation of jurisdiction. Perhaps the next week, Treasury could provide us with that kind of information and, after having had that, we then pick a day in which we sit down and make the decisions about where it is we are going to go as a result of that kind of information?

Mr. Chairman: We are getting a staff report, too.

Miss Stephenson: A paper as well, yes. That would be part of the input into that decision-making process which does not necessarily have to be by next week or even by the week after, but we hear what the ministries have to say about it at any rate.

Mr. Foulds: If that does not conflict with the free trade committee, it makes a lot of sense to me. We could have three relatively short meetings and accomplish what we want to do.

Mr. Cordiano: This is getting awfully complicated because of the fact the free trade committee has to sit for at least five weeks or thereabouts. If the House is sitting until the middle of July, assuming that, that could take us up to September for the free trade committee, which will throw everything out of kilter. That is the difficulty. What we are facing with the other committee is that we need about four or five weeks to sit on that committee and come up with the final report, which could take us right down to the wire.

Mr. Chairman: I do not know whether that committee wanted any more Thursday mornings, though.

Mr. Cordiano: No, that is what I say. We are going to need full days in order to do anything on that committee.

Mr. Foulds: If I am not pre-empting her, I would move as a formal motion Dr. Stephenson's suggestion that we meet the next two Thursday mornings. Next Thursday morning to hear Consumer and Commercial Relations and the following Thursday morning to hear Treasury and their opinions of our jurisdiction and involvement in this question.

Mr. McFadden: Could we add Industry, Trade and Technology?

Miss Stephenson: Yes.

Mr. Foulds: Yes. Maybe we could have Treasury and ITT at the same time.

Mr. Chairman: I have been told that Treasury cannot be ready in the month of June. You are now talking about--

Miss Stephenson: That would be July.

Mr. Chairman: --July 3. I do not know whether they would feel that was pushing them too much.

10:30 a.m.

Miss Stephenson: That gets them over the month of June anyway.

Mr. Haggerty: The committee dealing with free trade has the concurrence of the House to sit while the House is sitting.

Mr. Chairman: In fact, the committee on free trade technically is supposed to be sitting right now and every Thursday morning. We are sitting out of deference to that committee. It is my impression that committee is not terribly interested in Thursday mornings until the House rises.

Mr. Haggerty: Do you mean we are just here filling in time?

Mr. Chairman: They have given over to this committee today and last week so that this committee could make some planning decisions.

Mr. Haggerty: I do not think we should interfere with that committee's final report. That is important because something may come out of it. It may not be tabled in the House. We cannot deal with it anyway, but there may be some matters that will follow the report that will reflect upon this committee. We will have that but we can sit if we want to. We are doing it. I do not want this committee to interfere with that committee.

I suggest when we make any arrangement to set up committee meetings throughout the summer that we take into consideration members who live outside Metro Toronto, such as in Kitchener, Cambridge and that area. There is an extra day travelling that should be taken into consideration. We cannot be here on the spur of the moment.

Miss Stephenson: It takes an hour to come from Kitchener. How long does it take to come from Fort Erie? Two hours?

Mr. Haggerty: It depends on the Queen Elizabeth Way. One could be three hours on that road or two and a half hours at least.

Mr. Bossy: What about Chatham?

Miss Stephenson: Chatham is the other end of nowhere. It is sort of like getting in and out of Wawa. It is easier to get in and out of Wawa.

Mr. Chairman: There is a motion on the floor to the effect that we should ask the select committee on economic affairs if we can meet on June 26 and July 3 to discuss jurisdiction and invite the Ministry of Consumer and Commercial Relations to give us a presentation on June 26 and the Ministry of Treasury and Economics, the Ministry of Industry, Trade and Technology and the research office to give us presentations on July 3.

As a matter of some interest, I had hoped to be absent both of those weeks but maybe I will not. I do not know yet. Is there any other debate?

Mr. Morin-Strom: I wonder how you asked the other committee that when the other committee will not have an opportunity to meet until after the three weeks you are talking about.

Miss Stephenson: The chairman of this committee is the chairman of the other committee.

Mr. Chairman: You are technically correct. Do you see any problem?

Mr. Morin-Strom: I get the impression from the way you have worded it that it does not make any sense. Why not just say we will ask the House leaders?

Mr. Chairman: I will have a thorough discussion with the chairman of the select committee on economic affairs and I am sure I will convince him.

Miss Stephenson: It depends on which hemisphere he is in.

Mr. Cordiano: Just use your cellular phone.

Mr. Chairman: I will use my cellular phone, if I can get one. Does everyone understand the motion? All those in favour? Carried.

Are there any other meeting problems? The only other matter on the agenda would be matters of substance as to what we can accomplish in the period between now and October. We had some brief discussion of that at the steering committee. Does anyone want to raise any of those issues?

Mr. Cordiano: Perhaps you could raise with the rest of the committee members some of the things that were discussed at the subcommittee meeting.

Mr. Chairman: Mr. Foulds had some ideas. My mind is blank right now as to how we should be approaching the issue of corporate concentration.

Mr. Foulds: Like Bishop Tutu's elephant, one bite at a time. It is such an enormous question. I think perhaps you, obviously, and David McFadden were talking about financial institutions, but there are other kinds of corporate concentration that affect our economy. I particularly have an interest in how corporate concentration affects the north and how it affects the balance of Ontario's economy. There are areas other than the north that are seeing are both the flight of capital and the flight of labour. There is the strange phenomenon of Hydro in the Golden Horseshoe and other areas that have declining growth. I would certainly like us to look at that question.

Mr. Chairman: When you talk about the two economies, you agree it is not necessarily only geographic.

Mr. Foulds: Absolutely. Maybe we should have a look at the so-called informal economy.

Miss Stephenson: How do you get a handle on that?

Mr. Foulds: I would like somebody to do some groundwork.

Miss Stephenson: It would be interesting to have some information about that, but how you manage to get solid information about it escapes me completely unless you have a pipeline into the informal route, which I do not have.

Mr. Foulds: There are a couple of economists who have studied that. As I was driving back from Port Elgin last Wednesday evening, I noticed on Ideas, the CBC program that is on at nine o'clock, that there were a number of people who appeared to be knowledgeable about it who were economists. I did not stop and write down the names.

Mr. Cordiano: We can always get the fape of the show.

Mr. Chairman: I do not have any answers as to how we can get a real handle on it.

Mr. McFadden: As I recall how we were suggesting we go at this, it was that we determine areas of jurisdiction, first of all. We then choose one or at the most two areas that we take a look at with the idea of giving a report to the Legislature in early fall. Then we sit down with the document on the economic outlook for Ontario which, I understand, Treasury will be doing,

and then look at that in terms of those areas of Ontario or those groups in Ontario that have unusually high levels of unemployment as opposed to other areas and groups which seem to be doing extremely well and try to see how this all fits together and what the government might be able to do to equalize the situation.

Whether that has anything to do with corporate concentration or not is hard to tell. That is probably a study that it would take a year or two to figure out. From there, as I understand it, we would move on to budget submissions at some future date, after we have had a look at the Ontario economic outlook in the fall. I do not know when the budget submissions start.

Mr. Chairman: I think they start about October, do they not, Dr. Stephenson?

Mr. McFadden: We can focus in on those budget submissions as it relates to economic conditions?

Miss Stephenson: Not usually. The economic outlook paper is usually produced first and that is mid- to late October or early November. Sometimes it has been later. Then the budget submissions begin because the economic outlook is usually the spur that provides some information for those remaining presentations. It goes on, usually, through November, December and January. Sometimes it is completed by the end of January and sometimes it is not.

Mr. Chairman: I am wondering to what extent, once that process starts, we will have any time to look specifically at corporate concentration.

Miss Stephenson: I thought we had determined that we are not going to duplicate what the Treasurer does in terms of the delegations that make presentations to him. If we take a look at the economic outlook and decide to concentrate on either geographic area or communities or groups which seem not to be achieving the kind of advantages that others are, we could ensure that the delegations that we see are those that might have a specific impact on that situation. We should be selective about the groups.

10:40 a.m.

That means we will be busy--there is no doubt about that--but we will not be as horrendously busy as, for example, the Treasurer is, who sees a series of groups almost every day.

Mr. Chairman: He is hoping we will take a lot of that burden.

Miss Stephenson: That is not our task; that is the Treasurer's task. I would like to remind the Chairman that this committee determines what its role will be. The Treasurer's task has always been to hear those delegations. The Treasurer has seldom delegated that responsibility to anyone, even to a parliamentary assistant. Those who make those presentations are very distressed if the Treasurer himself or herself does not hear them.

Mr. Chairman: To the extent that we do hear some of them, it would open up the debate.

Miss Stephenson: There is no doubt about that. We may duplicate some of the hearings that the Treasurer has, but we are not replacing the Treasurer. That is not our role, if I understand what most of the committee members believe at any rate.

Mr. Cordiano: I do not think that it was the intention of the Treasurer to slough off his responsibility to this committee. That is not what he intended. What he thought this committee could do was to open up the process so that there could be input into the budget-making process itself.

Miss Stephenson: Exactly, because the hearings that we have will be public since we are a standing committee. Anyone who wants to come and listen is free to do so.

Mr. Cordiano: We are not necessarily restricted to those groups that have seen the Treasurer in the past. It is important to have some of those groups appear before us so that we do give some public recognition to some of the arguments that are advanced to the Treasurer year after year and, in addition to that, hear from some other groups that we may not hear from in the Treasurer's time.

Mr. Haggerty: I want to remind you that David mentioned the mandate: "It is recommended that a standing committee on economic and fiscal affairs be struck to receive the Ontario economic and fiscal outlook, outlined below," and it gives what problems the committee could deal with.

Mr. Foulds: Does that have the conditions I raised?

Mr. Haggerty: Those are the conditions the Treasurer set.

Mr. Foulds: They are the Treasurer's conditions, but any standing committee of the Legislature can set its own agenda and our agenda may not be coincidental with your agenda and the Treasurer's agenda.

Mr. Haggerty: The mandate and the recommendations are there, but they cover the ball field you are talking about. The mandate says "to hold prebudget hearings." David has mentioned that. We will have to look at that. It says "to review all tax legislation arising from the budget." That comes into the corporation thing; so we are within that guideline there. What is suggested here is that we should be sticking to this without getting off base someplace else. It says the committee "could outline its view of the fiscal challenges to be addressed, the problems facing various sectors in the economy and the impact of international developments on the provincial economy."

When I look at the international thing, I am looking at free trade and multinational corporations. We are within that ambit. Let us not stray from what the committee's intent is. We are on that track, but let us not get carried away looking away down the road. These things will follow in sequence as we get into the report he will be tabling some time maybe in the later part of October. I do not want to see us jump off there without sticking to what the principle of this committee is to look at.

Mr. Chairman: If I am not mistaken, technically, we do not choose our own terms of reference. They have been and are chosen for us by the Legislature. In fact, we have been given extremely wide terms of reference at present which virtually permit us to choose our own.

Mr. Foulds: This is the third meeting of this committee I have attended and we seem to be discussing the same things. I do not call that progress. Let us admit we cannot do everything, we cannot see every person who wants to see us and we cannot examine every question on the economy. We have decided what we are going to do for the next two meetings. We have decided we

will look at corporate concentration and its jurisdiction at that first one and we will take a look at what happens as a result of the economic outlook paper.

What are we discussing? It seems to me we have a full agenda for the next several months. At this point, I do not see that we can make an informed decision about what we would like to do after September. We could make that informed decision after we have had the presentations on jurisdiction and after we have had the presentation from our own research staff. It might be very worth while at that point to have a more fruitful discussion.

Obviously when the House is sitting in October, we will be able to sit only Thursday mornings; so there is not going to be a hell of a lot we can do just because of the demands of time.

Interjection.

Mr. Foulds: Let us not predict that. A week is a long time in politics. In October there may be different items on the agenda.

What we have done is good work on getting things going about a mandate. Why do not we just leave it at that?

Mr. Chairman: I agree, Mr. Foulds. It is not an easy subject to decide where we are going on. That is why I have permitted a fair amount of discussion on it. I think you will find in the course of the progress of this committee that we hope we will not be spending very much time on our own housekeeping.

Mr. Cordiano: I think I started the ball rolling by suggesting that we discuss what might have come up as topics in the subcommittee meeting. I thought that the rest of the members might be brought up to speed with regard to that. That is where this discussion started. Other than that, I think we have agreed to the agenda for the next six months in general. There was no discussion on that.

Mr. Chairman: We did have a brief discussion on it in steering committee. I just wanted the full committee to have the benefit of that discussion. I think we have a pretty good idea of where we are going.

Unless there is any other business, I would entertain a motion to adjourn and then the clerk and I will proceed to the House leaders' meeting.

Miss Stephenson: With armour in place and your swords sharpened.

Mr. Foulds: And wear out your knees genuflecting.

10:48 a.m.

The committee adjourned at 10:48 a.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

THURSDAY, JUNE 26, 1986



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

VICE-CHAIRMAN: Cordiano, J. (Downsview L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Bossy, M. L. (Chatnam-Kent L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

McFadden, D. J. (Eglinton PC)

Morin-Stron, K. (Sault Ste. Marie NDP)

Sargent, E. C. (Gray-Bruce L)

Stephenson, B. M. (York Mills PC)

Substitutions:

Hennessy, M. (Fort William PC) for Mr. Asne

McLean, A. K. (Simcoe East PC) for Miss Stephenson

Clerk: Mellor, L.

Staff:

Traficante, F., Research Officer, Legislative Research Service

Witness:

From the Ministry of Financial Institutions:

Davies, B., Deputy Minister

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, June 26, 1986

The committee met at 10:13 a.m. in committee room 1.

CORPORATE CONCENTRATION

The Vice-Chairman: Today we have with us Bryan Davies, the Deputy Minister of the Ministry of Financial Institutions. On behalf of all members of the committee, I want to thank him for appearing before us today. He has a busy schedule, and we are very appreciative of the fact that he is here with us this morning.

Mr. Davies: I appreciate that. It is a pleasure to be here. As I said to your committee secretary earlier, if there are matters you wish to pursue in greater depth in the future, we will be pleased to appear at any time.

As requested, my comments today will relate to financial institutions and the question of jurisdictional control over these institutions. I understand that representatives from the Treasury and the Ministry of Economics are scheduled to appear before your committee some time in the next week or two and they will be considering the question of ownership and the concentration of ownership in the broader context, covering all economic sectors. Today I am focusing strictly on the area in which I have some knowledge, financial institutions.

Perhaps it would be useful for me to start by providing some background on the regulatory approach we take to financial institutions in this province and its consequences vis-à-vis the concentration and ownership questions. In terms of financial institutions and provincial regulatory jurisdiction over them, it should be noted that Ontario has traditionally regulated for public protection. Regulation enhancing or restricting competition or for purposes related either to market or ownership concentration has not been the primary focus, and where legislation has any influence in these areas, it is in an ancillary way.

It might be useful to provide some brief historic context for this regulatory approach. Financial institutions were first formed in what is now Ontario in the mid-19th century. Under the British North America Act, the federal government was given specific power over banking and the provinces were given control over insurance contracts. Insurance legislation dates from Confederation, with its emphasis then and now being on the protection of policyholders.

The Permanent Building Societies Act of 1875 allowed building societies to lend beyond their membership for the first time. Their investments were regulated and the provincial Treasurer was given regulatory powers, again for the protection of the public. In time, credit union legislation and control over securities dealers followed, both with the same basic philosophy of providing protection to the public when dealing with these institutions.

With that historic context in mind, I will outline which jurisdiction now controls what in this country.

In the financial sector, Ontario has exclusive jurisdiction over securities dealers, credit unions and caisses populaires. In turn, the federal government has exclusive jurisdiction over banking. That covers both the schedule A domestic Canadian banks and the newer schedule B or foreign banks that are set up in this country.

The two levels of government, federal and provincial, share jurisdiction with other provinces in areas relating to life insurance companies, property and casualty insurance companies, loan corporations and trust companies. As committee members will note, this is a considerable overlap between jurisdictions and consequently there is a real need for co-ordination.

In areas where jurisdiction over an industry is shared, even in the areas that are purely under provincial jurisdiction, such as securities dealers and credit unions, various jurisdictions have worked to develop mechanisms over the years for co-operative and complementary regulation.

At the regulatory level, the following intergovernmental groups meet at least annually to resolve regulatory problems and work towards developing uniform legislation. There is a group called the Canadian Council of Superintendents of Insurance, which addresses matters in the insurance area; the Association of Trust Company Administrators; the Canadian Securities Administrators; and the National Association of Administrators of Credit Unions.

More recently at the ministerial level, ministers in Canada responsible for regulation of financial institutions have agreed to improve federal-provincial co-ordination by having regular federal-provincial ministers' meetings, with a continuing committee of officials to facilitate consultations and the development of co-ordinated policy responses to changes in this fast-moving industry. They have also moved to enhance information-sharing among jurisdictions and between the jurisdictions and the major deposit insurance corporations, both the Canada Deposit Insurance Corp. and its Quebec equivalent.

Finally, we are working towards a database on federal and provincial financial institutions as well as a directory of ownership to provide a sounder basis for decisions on the part of regulators. This is an area where the data have not been as complete as it might have been in the past.

Let me turn now to the issue I presume is of the most direct interest to this committee, the issue of which regulations are now in place that impact on ownership of financial institutions and hence would impact on the questions relating to concentration of ownership.

With the exception of schedule A banks, which limit any single shareholder to a maximum 10 per cent ownership of shares, there is no legislated maximum limit on domestic ownership of financial institutions. However, in Ontario there are a number of existing legislative mechanisms that affect financial institutions that might impact on ownership and concentration.

In the area of life insurance companies, these include a notice requirement that if more than 10 per cent of the shares of any Ontario life insurance company are transferred or if any transfer would give one shareholder a majority of shares, this has to be reviewed. It is a notice requirement. There is also a notice requirement if more than 10 per cent of the shares of an Ontario property and casualty insurance company are transferred or if any transfer would give one shareholder a majority of the shares.

10:20 a.m.

There is a requirement for prior approval by regulators when there is a transfer of shares of an Ontario trust company that would result in one shareholder owning more than 10 per cent of the shares or would result in such a shareholder with more than 10 per cent increasing his or her percentage ownership. There is an identical requirement to this respecting Ontario loan companies also in the same statute, the Loan and Trust Corporations Act.

At present, there are no provisions that limit shareholdings in credit unions per se, but I point out that by the very nature of the credit union and caisses populaire industry, each member has only one vote. The issue of ownership there is implicitly widespread.

A number of life insurance companies and property and casualty insurance companies operating in Ontario are mutual companies with no shareholders as such. As a mutual, ownership is widely diffused through its many policyholders.

Legislation and regulation over the securities industry at the present time is characterized by a requirement that it be controlled by those active as security dealers. Recent proposals announced by the Minister of Institutions (Mr. Kwinter) a week and a half ago would expand the permissible outside investment in the industry, but even those proposals still contemplate that control would remain in the hands of those active in the industry.

In terms of foreign ownership limitations, it is a fair generalization to say where these restrictions exist--and in Ontario they exist most noticeably in our securities legislation and trust and loan legislation--they follow a standard 10:25 rule, that is, no single foreign investor may own more than 10 per cent of such organizations and, cumulatively or in aggregate, foreigners cannot control more than 25 per cent in total. Provisions of that nature do not exist in the insurance field nor the credit union field.

In addition to these existing regulatory provisions, there are some other measures contemplated in positions being put forward by the government which might affect ownership in the future. Bill 87, the proposal to amend the Loan and Trust Corporations Act, significantly expands the role of the province in regulating the ownership of federal and extraprovincial or other provincially incorporated loan and trust companies that operate in Ontario.

I stress that these proposals are not aimed at concentration concerns per se. Under this proposed act, all registered loan and trust companies would require the same prior approval of the province before transferring shares beyond the 10 per cent limit as is now required for corporations incorporated in Ontario. That is what I referred to earlier.

Subsection 63(3) of Bill 87 states that a share transfer may be refused if it is in the public interest to do so. Without limiting the generality of public interest, the act goes on to state that consent may be refused if the shareholder is or has been bankrupt; has been convicted of a criminal offence, an offence under the Securities Act or under the Loan and Trust Corporations Act; has been subject to a cease-trading order under the Securities Act or subject to an examination by the minister or an investigation by the superintendent under the various sections of the Loan and Trust Corporations Act that mandate those investigations; is contravening any provision of the Loan and Trust Corporations Act or any comparable legislation of another jurisdiction; or is contravening an undertaking given to the superintendent; or has failed to provide information requested by the superintendent supporting the application for transfer.

All these provisions to review ownership changes are designed to exclude undesirable individuals from a position of significant influence and do not address concentration of ownership per se.

There are significant provisions in Bill 87 to address conflict of interest and self-dealing concerns which can, in part, arise from concentrated ownership. However, as an alternative to limiting ownership, Bill 87 provides strong, self-dealing bans that extend to affiliated companies, be they in the financial or nonfinancial sector.

I hope this brief survey of jurisdictional roles and existing legislative provisions and a summary of some of those in contemplation right now has been of some help to this committee. As I said at the outset, the Ministry of Financial Institutions will be ready to assist your committee in any way it might in the course of your analysis over the summer. Any assistance your researchers might need, we would be pleased to provide.

The Vice-Chairman: Are there any questions at this time?

Mr. Barlow: I have just a comment that it is a good overview. It gives us a jumping-off point to begin our deliberations on this, but at this time I have no questions. It was very well presented and I appreciate it.

Mr. Morin-Strom: I wonder if we could get a copy of your presentation.

Interjection: You will get a transcript.

Mr. Barlow: Yes, but transcripts are slow coming through right now.

Mr. Morin-Strom: Transcripts are a little harder to read than something that is laid out with sections and headings.

Mr. Davies: If I attempted to give this to you now, it would be even more difficult to read than the transcript I am afraid, but I would be pleased to get this typed up and provide it through the staff of the committee.

Mr. Morin-Strom: There is some controversy about the proposed changes to regulations on financial institutions. In particular, banks are expressing strong concerns about the fact that other financial institutions are moving more and more into the role that the banks have had traditionally. There is concern from the banks, but we see concern about actions such as Genstar's recent takeover of a trust company.

Does your ministry have a position on how to make the rules fairer and more consistent for all financial institutions and, in particular, ensure that financial institutions are not under the control of or dominated by one or very few major shareholders or influence groups?

Mr. Davies: As I indicated in the overview, the current legislation is really not focused on the ownership question in very direct ways, nor is the proposal under the loan and trust company amendments under Bill 87. The approach has been to look beyond what the issue is of concern over concentrated ownership. In great part, I suggest that is an issue of related party transactions, self-dealing, non-arm's-length involvement between a majority owner of a financial institution and other organizations owned by that controlling shareholder. In that respect, the approach taken in Bill 87

is to have a set of restricted parties identified, including affiliated companies, such that the potential abuse of trading on a non-arm's-length basis will be prevented and precluded.

Mr. Morin-Strom: You say the issue is about related party transactions, but that has not been the approach taken with the banks.

Mr. Davies: That is correct.

Mr. Morin-Strom: Why should we be having one set of rules for the banks and a separate set of rules for other financial institutions? If we ensure that there is no major influencing force, as we have been able to do with the big banks, then we eliminate the concern and the potential for a major shareholder wilfully or unwilfully to self-deal.

10:30 a.m.

Mr. Davies: I come back to the premise I stated at the outset of my notes that the focus of regulatory activity in this province, historically, has been the protection of the depositor or protection of the consumer. I note that even in widely held financial institutions, such as two charter banks that existed in western Canada until last year, failures can occur. The very nature of widely held versus closely held does not guarantee solvency or does not guarantee protection of the depositor.

Mr. Haggerty: I was glad you brought in the word "deposit." Where does the public have any input in this matter? Suppose someone has deposits in the Canada Trust Co. and Genstar has moved into the area of takeover and then there is another company or firm that has taken over from Genstar. There is protection for the investor under the federal insurance agency that will invest up to \$60,000 or \$100,000 now.

Mr. Davies: That is for the depositors.

Mr. Haggerty: That is right. There is nothing there that is really going to guarantee the public interest in the case of somebody who has put money in there. In my area, there are a number of people who had quite an investment in different trust companies, but they have no say or input into the takeover. Should there not be some provisions there?

I am looking at the words "free trade" with the United States. One could have companies flocking here and there could be a complete takeover of our financial institutions without any protection to the depositor in a sense or to Canadians as a whole. One could see this capital disappearing from here to the United States. When you see that happen, the first thing you know is you are going to find industry and development are going to take place in the United States, not in Canada.

From what I understand, you indicated that present amendments put forward to Bill 87, for example, unless I am interpreting them wrongly, mean that the trust companies can provide the same services as the banking institutions are providing now and the banking institutions are going to get back into the area of mortgages and real estate. They are going to get involved in it; so you are really opening it up.

One cannot have any more than 10 per cent under banking but under the trust companies, it can be wide open. One owner can have it, and that is when

the wheelings and dealings come in. There is huge profits to be made on what the depositor has in there and he gains nothing by it. In this area, what provisions can we find there to say if that a person has an investment in a trust company, should he not share in that large takeover and the profit that is going to one or two individuals?

Mr. Davies: With respect to the loan and trust companies legislation in this province, the focus being as it is on ensuring in so far as possible the solvency of the organization and hence the protection of depositors' interests, those matters of ultimate ownership have not been the prime focus of attention in the past and are not the prime focus of attention under the proposed amendments either. What is the focus of attention under the amendments, however, is to ensure those sorts of transactions that you cited as putting depositors' interests at risk cannot take place without stringent regulatory control and approval. That has not been the case adequately in the past as we have seen with the failure of number of companies.

Mr. Haggerty: We have seen it with Atlantic Acceptance Corp., British Mortgage and Trust Co., Greymac, all of those. What bailed them out was the insurance provided under federal legislation, which taps the sources of public input into it. They put a guarantee but not enough to cover it all. In other words, it is another form of hidden taxation to bail out the takeovers in a number of these instances that have taken place. Somewhere along the line, a large transfer of funding went somewhere. Where it is I do not know.

It is the depositor who builds up the credibility of the trust company or credit union. With the security by the federal government in legislation, it opens the door to a takeover. Eventually, something happens and the money disappears into receivership. This is the area we should be looking at. When we get talking about free trade, I can see there is going to be more takeovers of financial institutions in Canada. Perhaps the present legislation by opening it up is going to encourage this. I do not know.

Mr. Davies: Perhaps this is not the appropriate forum to discuss Bill 87 because it is going to proceed to another committee of the Legislature for clause-by-clause review.

The Vice-Chairman: I do not think it was the intention of this committee to review Bill 87, but to deal with matters of jurisdiction with regard to the provincial side of things as opposed to the federal side.

Mr. Morin-Strom: To get to my question, the prime function of this committee in terms of its area of concern right now is corporate concentration. That is precisely the area we are trying to bring up here as being a major area of concern that it is our duty to investigate further. Regardless of the fact that your ministry perhaps is not putting the prime focus on the legislation as being the ownership but rather saying security for the depositors, there is concern about the level of concentrated ownership in certain areas of our financial institutions. I think we have a need to get the best information possible in front of us so we can assess what recommendations we might make in the area of financial institutions in regard to conflicting rules in terms of ownership in that concentration and whether that is potentially creating problems, or what changes we might suggest in that area.

You seem not to want to talk so much about that, but I think that is our jurisdiction and primary focus as we have been mandated by the Legislature.

The Vice-Chairman: It is very difficult to answer a question when it is a comment. Any other questions from members of the committee?

As I do not hear any more questions, I think we will proceed with other matters at hand, if there are any.

Mr. Barlow: May we have a copy of that?

Mr. Davies: Most definitely.

Mr. Barlow: We can analyse it individually and come back. There will probably be more questions then..

Mr. Haggerty: I had one more question. You hit the topic of investment being regulated, but you did not go into detail. What regulations are there that protect the public in dealing with the regulatory approach?

Mr. Davies: The various provisions regarding--

Mr. Haggerty: Concentrated ownership.

Mr. Davies: Again, the approach taken in the existing legislation and even in the proposed legislation does not address ownership per se. It addresses ownership only in so far as it has a foreign ownership limitation, the 10 to 25 rule I mentioned. Beyond that, the focus is on controlling the nature of the activities of the organization with a view to keeping it solvent and able to meet its obligations to its depositors and investors.

Mr. Haggerty: Are you aware of any difficulties at the securities commission of concentrated ownership with regard to conflict of interest in this area? Can you cite any problems in this area?

Mr. Davies: In terms of financial institutions?

Mr. Haggerty: Yes.

Mr. Davies: I can only do so in anecdotal fashion in the very transaction that you cited earlier of the Imasco takeover from Genstar of Canada Trust. During the course of hearings at the federal level, there were suggestions brought forward that the controlling shareholder in the past had used moneys from a financial institution to finance some of its own activities without giving due heed to the true business merits of that transaction. It is my understanding that the new owners, Imasco, on assuming ownership and control of Canada Trust, have given some forms of undertaking that they will not have those sorts of related party transactions occur.

10:40 a.m.

It is further my understanding that they have modelled their undertakings to the federal government on the sorts of criteria that are spelled out in our Bill 87. To attempt to answer your question as to whether or not there have been examples in the past of problems relating to ownership of organizations, I have had direct exposure to that event to the extent that I followed it in the media and in the transcripts of the hearings.

The Vice-Chairman: I would like to thank you for coming before us. I may add that if we do need to go into some further detail with regard to some

of the items you have brought before us today, I am sure we can do so in the fall. As you have indicated, you will make yourself available at that time and we certainly will have you appear before us if members of the committee feel it is important.

Mr. Davies: Very good.

The Vice-Chairman: Thank you very much from all members of the committee.

I do not think we will be dealing with any other matters this morning. I believe next week we will have Bryne Purchase from Treasury. He will be appearing before us next Thursday.

Mr. Haggerty: Is there any background information that can be provided to the committee in case we have experts come before us who can lead us to some questions so that the members can better prepare themselves?

The Vice-Chairman: I believe the purpose of having these witnesses before us is to give us an indication of the kinds of things we may want to be looking at with regard to the jurisdictional areas that we are exploring at this time.

Mr. Hennessy: Once you get the brief, you can look over it and find things on which you may want to ask questions.

The Vice-Chairman: This is sort of a preliminary look at areas.

Mr. Hennessy: I am not worried about preliminary areas. What about the main one?

The Vice-Chairman: We certainly will be looking at some of these topics in greater detail.

Mr. Morin-Strom: One conclusion we can get from this is that the major financial area we cannot look at is banks. That is solely federal jurisdiction.

The Vice-Chairman: Exactly. That does not surprise any of us.

Mr. Morin-Strom: But we should look at jurisdiction in all those other areas of financial institutions.

The Vice-Chairman: Yes. I think we should be looking at some of those items that were brought up this morning and get some further detail on corporate concentration. I am sure some of those topics will overlap. In any case, we can look at those in greater detail.

Mr. Barlow: Treasury is also going to be talking to us about corporate concentration and how it sees it.

Mr. Traficante: I believe that is what it is going to talk about. I believe the way that responsibilities are divided among the ministries is that the Ministry of Financial Institutions deals specifically and solely with the question of financial institutions and their organization, while Treasury deals with broader economic policy questions such as corporate concentration and perhaps how financial institutions feed into, assist or affect corporate concentration.

It would deal with how corporate concentration is occurring in other industries; for example, how insurance feeds into real estate and other things, how trust companies have in the past been used with regard to assisting real estate transactions. There will be those kinds of questions of a broader nature, and also how securities legislation might affect corporations and private transactions. I believe that is what Treasury will be dealing with on a much broader issue. I do not know specifically how it will work.

The Vice-Chairman: Perhaps I could ask the researcher. At some point, we will be receiving some background material and anything that he has compiled that could be useful to members of the committee.

Mr. Traficante: As was asked for last week, we are preparing a paper which deals strictly with the legal question of jurisdiction, such as what the jurisdictional responsibilities are of the Ontario Legislature with regard to the question of corporate concentration as opposed to the jurisdiction of the federal government. That will be prepared for next Thursday's meeting.

The Vice-Chairman: We will have that for next Thursday then?

Mr. Traficante: At the meeting.

The committee adjourned at 10:45 p.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

THURSDAY, JULY 3, 1986



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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Sargent, E. C. (Grey-Bruce L)

Stephenson, B. M. (York Mills PC)

Substitution:

Miller, G. I. (Haldimand-Norfolk L) for Mr. D. R. Cooke

Clerk: Mellor, L.

Staff:

Bond, D., Research Officer, Legislative Research Service

Traficante, F., Research Officer, Legislative Research Service

Witness:

From the Ministry of Treasury and Economics:

Purchase, Dr. B. B., Assistant Deputy Minister and Chief Economist, Office of
Economic Policy

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, July 3, 1986

The committee met at 10:13 a.m. in committee room 1.

CORPORATE CONCENTRATION
(continued)

The Vice-Chairman: Members of the committee, perhaps we can get started. I am sure our guests have a hectic schedule, and we appreciate that they are here today. With us we have Dr. Bryne Purchase from the Ministry of Treasury and Economics and members of his staff whose names I do not have. Perhaps you will introduce them.

Dr. Purchase: On my left is Cindy Dymond and on my right, Geoff Hare.

The Vice-Chairman: We have been dealing with the topic of corporate concentration for the past couple of weeks, and we are going to be talking about jurisdictional areas vis-à-vis the provinces and the federal government. Perhaps I should let you carry on.

Dr. Purchase: I should start by saying we are going to deal in part with jurisdictional areas. As I indicated to staff of the committee when we talked on the telephone, jurisdiction is a legal matter and I am an economist, not a lawyer.

The Vice-Chairman: It is a good thing you are not a lawyer; we would be in trouble.

Dr. Purchase: There are going to be a lot of lawyers, and I am sure you know more about the law than I do. The other aspect important to remember is that there are experts in law for the government, and you may wish to see the Attorney General's staff, particularly on constitutional issues. We will touch on jurisdiction, but I do not want to leave the impression that we are experts in this regard.

In this presentation, I have tried to give you an overview of our research, and the way in which we have organized our thoughts to bring our research efforts to bear on this issue. You can imagine it is not something we typically deal with in Treasury. Although it has been a major public policy issue from time to time over the past many years in Canada and there have been royal commissions on it several times over the past 15 years, it is not something that is the day-to-day work of a Treasury department of a provincial government.

Notwithstanding that, we have launched an investigation into this issue and the potential role of the province and its jurisdiction in this regard. I hope this presentation will give you some ideas on areas you might wish to pursue in the future. We do not regard this as our definitive statement. From our perspective, it is a bit rushed to be here now, but we would be prepared to come back at the end of the summer to try again with a more complete presentation for you. If I cannot answer all your questions, I apologize, because we are learning ourselves in this respect. Having said that, let me begin.

When all is said and done and you have heard all the experts, you are going to come back to a fundamental issue. In the final analysis, what you are going to come back to is consideration of the corporation. What is it? Of course, it is a legal entity which is given all the rights and powers of an individual to enter into contracts. It is historically extremely important in the development of capitalist economies, because it also has limited liability. Therefore, it can amass and bring to bear large amounts of capital in various projects but limit the liability of owners. That has been extremely important for the development of western economies.

This is a legal innovation which is an extremely important invention for the development of the economy. It is an economic entity which has certain characteristics. No doubt some economists may talk to you about the characteristics of the corporation. I will have a few words to say about why it exists, or at least what theory there is about corporations now. It is also a social institution, because it is a place where large numbers of people work, and people often define their lives in terms of the corporation. You see it most fundamentally perhaps in what is referred to as a single-industry or single-company town, where virtually everyone works in this institution. Notwithstanding that it may be privately owned, it has dimensions which go beyond simple ownership.

10:20 a.m.

The corporation is also something which is greater than the sum of its parts. It is more than a collection of labour, capital and management. It is often worth more on the market. A going concern is worth more than the separated assets of that concern if you try to sell them individually. It is an organic entity, and this goes back to my reference to it being a social institution. It is not just a collection of resources, if you like.

Finally, when you think about corporate concentration, you will come back to this issue of what is the role and significance of the corporation in the economy and in society and what you want it to do. In the final analysis, that is where you will be able to answer the questions that are in your mind.

In terms of jurisdiction, I would argue that it is limited in law and in effect by the powers given to the province by the Constitution. We will come back to that issue at the end. I know it is one you are interested in. It is also influenced by the ability of an important provincial government and parliament to influence federal policy in this area. If you take a position on these things, you can clearly have an effect on the federal Parliament. Anyone's ability to influence a corporation is limited to some degree by the fact it is transprovincial, it is transnational, and the fact that capital is highly mobile and can leave if it does not like the conditions or restraints imposed upon it. There is a limitation of sovereignty by virtue of the fact that in many cases, a corporation exceeds the jurisdiction of a nation state and certainly the province.

You should not underestimate the ability of the Legislature to exercise moral suasion on corporate behaviour and to establish codes of conduct. You need not look necessarily to just what you can formally legislate, but also to what you can do through moral suasion to influence the behaviour of companies.

As you see witnesses on this subject, I think you will find a useful way to organize in your own mind the welter of evidence and opinion and so forth you will get on the subject. There are three distinct strands of concern that you can usefully use to organize some of this material. The first has to deal

with market concentration, which is the concentration of market shares held by, let us say, the four largest firms in the industry. It focuses on a specific product market and asks how many competitors there are in this industry or this product market, whether they are dominant, and what share of the market is held by the four largest four firms, or whatever measure of concentration you want to use. I will come back to that.

The second is the question of the absolute size of the corporation. There is another set of concerns that people have referenced which really looks at the fact that corporations are now multibillion-dollar concerns where an enterprise may own or control hundreds of subsidiary enterprises. In the view of some people, there are some issues which arise in respect to this aggregate concentration of wealth. They may not be concentrated in any one market, with respect to market control or power, but they are large with respect to their total control of assets.

Finally, there is the separate issue of the role mergers and acquisitions--or what I call the market for corporations--play with respect to all this. Clearly, it can be a separate source of concern, as it is for some people, or it can be important in relationship to the growth of market or aggregate concentration.

I find it useful to divide these issues into separable parts. It is a little bit easier to deal with the technical, economic and legal issues that arise from these things.

With respect to market concentration, the basic economic model is that market structure determines corporate behaviour. I will return to what we mean by "market structure" in the next slide. Competitive behaviour in turn determines performance. When firms do not compete, you tend to get higher prices and lower output.

It is fair to say that federal competition legislation is based on this particular model of economic behaviour. It focuses entirely on the issue of market concentration and competitive performance in a specific industry.

I will return to what I mean by market structure and competition. We have here a basic model for determining competition in an industry. The centre box shows industry competitors. The fewer competitors there are, the more potential there is for collusive behaviour.

I have listed rivalry of firms. In this case, if firms have different corporate strategies, it may be more difficult to get them to collude on a tacit or overt basis. If an industry has a high level of fixed to variable cost, it may be more difficult to get firms to collude because there are such large incentives for anyone to attempt to sell more and take market shares from a rival.

There are issues which relate to the intensity of rivalry between competitors--not just the number of competitors but their individual characteristics, and those of industry, which may determine whether there is active competition.

As well as looking at the industry itself, the number of competitors, their rivalry and the intensity of that rivalry, you have to look at the power of buyers--who they sell to; whether there is any market power there--and the power of suppliers, whether any market power is being exercised by suppliers in that industry. Clearly, all that will have an influence on the rates of

return and prices that can be charged by these competitors.

You have to look at the possibility of substitutes--plastics for steel, for example. In other words, you cannot just look at how many steel firms there are and the rivalry among them; you have to look at whether there are substitutes for steel in various submarkets, and so forth.

10:30 a.m.

Finally, you have to consider the possibility of potential entrants into an industry: those who may enter, and the barriers to their entry. Some argue that most markets are what has been referred to as "contestable." In many cases, while there may be few competitors now, there is a very long list of potential entrants into an industry, and that potential entry list limits your ability to raise prices above a competitive level or to do things that would increase your rate of return above a normal, long-run, competitive rate of return.

Other economists argue that in many industries there are very high barriers to entry. If there are economies of scale in an industry, to enter that industry you have to enter in a very large size to achieve these economies of scale. That represents a barrier. You cannot hope to enter the industry in a small size and sneak in without anyone noticing. You have to enter in a very large size and take a significant share of the market right off.

Mr. Morin-Strom: This looks like more of an American textbook model of competitive forces. Imports and exports are a very large percentage of our economy. It seems to me that they should be reflecting our strength versus that of either corporations outside the country or other countries in terms of import competition and whether industry has the potential for export sales, depending on its competitive position.

Dr. Purchase: That is quite right. Again, you cannot look at just the number of firms in the Canadian market. You also have to look at import competition to determine whether there is competition in the market. You might even consider the potential for import competition as opposed to actual import competition as another condition when you are looking at the question of whether firms are operating in a competitive environment and, therefore, likely to operate in the public interest. You are right. You do have to look at import competition when you are considering whether there has been abuse of dominant position.

Mr. Foulds: Can I ask a question here? I do not know where it falls. What we appear to have in the pulp and paper industry is a regionalization of the industry. For example, northern Ontario tends to ship its product to the midwest United States, whereas Quebec and the Maritimes tend to ship theirs to the eastern seaboard, as well as overseas to Europe. How does that affect competition? Is there a kind of collusion or agreement there?

Dr. Purchase: I cannot answer specifically on whether there is collusion. They may choose separate markets for reasons of transportation costs or whatever. Each case has to be subject to its own special study, so I cannot answer the question.

In respect of regional markets, however, one of the difficult things is that you have to decide what is the relevant market. You can have many

competitors, but if there are very high transportation costs, each competitor may find that it has a localized monopoly, if you like. In looking at competition, you have to be aware there is not one national market for every product. There may be regionalized markets. In relation to localized markets, you might be looking at a neighbourhood in which there is only one seller. They may have a preferred location and no one else can get in.

Mr. Foulds: In the pulp and paper industry, I am thinking that it appears to have carved up the market not just regionally in Canada but internationally. Transportation factors may affect that, but I want to know how that affects competition. When does one of them, say, from the west coast, traditionally serving that area, decide it will attack the midwest market?

Dr. Purchase: I do not know that is the case. I cannot comment on specific industries I know nothing about, but if this were the case, it would be a restraint of trade if they had colluded in some way to avoid competition in each other's market.

Mr. Foulds: I am not interested in that as much as how it would affect competition. It does not seem to fit into your chart.

Dr. Purchase: I am not sure whether I am focusing precisely on your point. It may come to the question of the form of firm rivalry. They may divide a market in certain ways. They may say, "You take that market." They may not even say that explicitly. There may be no formal agreement, just a tacit understanding.

Mr. Foulds: Or historical development.

Dr. Purchase: That is right, historical development.

The Vice-Chairman: If I may comment on one other aspect, the fact remains that you are looking at the international markets. We were focusing on how they affect the home markets, the functioning of the firm and the marketplace in this country and how those companies develop as a result.

Dr. Purchase: The issue of corporate concentration, especially in Canada since the Canadian economy is so open to trade, is related to the trade issue which many of you are addressing in another committee.

The Vice-Chairman: We will not try to mix up the two.

Dr. Purchase: They are related in many ways. It is often argued, as we will see later when we are dealing with large size, that it is sometimes necessary to achieve large size to engage in international competition.

In the Canadian case, import competition is a very important part of the competitive model. It has to be considered because it is so extensive. To look at the number of Canadian competitors physically located in the Canadian market would probably be to misread the competitive situation.

You have in your package a review of the federal legislation. It should be under the Competition Act. It might be the second or third item. I want to run through what the federal Competition Act looks at.

Federal competition policy used to be entirely a matter of criminal law. As you know, under criminal law the burden of proof is very heavy. You have to

determine an offence beyond a reasonable doubt. Having listened to me and other economists on several occasions, you probably also know that beyond a reasonable doubt is not a reasonable task in economics. We can only say there is a balance of probabilities. If certain conditions hold, it is likely or probable that something will happen, rather than beyond a reasonable doubt.

10:40 a.m.

The criminal law proved to be a very inefficient way of prosecuting competition legislation cases. For many years a debate was waged about whether this should be changed. It has finally been changed. There is a new federal Competition Act that has moved some aspects of corporate structure and behaviour from criminal law to civil law.

However, conspiracies, which is the first item, are still under the criminal courts. You have to demonstrate that there has been an undue lessening of competition. However, you no longer have to demonstrate that there was an express intent to lessen competition, only that there was an intent to enter into an agreement. This is where I am well beyond my depth in understanding the nuances of all these things. I am told many people believe it will still be very difficult to get conviction on the conspiracy side.

This is where you have some formal attempt on the part of businessmen to collude. They will have either a written agreement or some very formal way in which they are communicating an agreement to restrain trade or lessen competition. On the other hand, mergers have been moved out of the adjudication of the criminal courts and into the purview of the civil courts and the new competition tribunal.

The competition tribunal is made up of four judicial members, one of whom is designated as the chairman. The chairman will be appointed from among the judges of the trial division of the Federal Court. The tribunal will have up to eight other members who will be lay members. They will be selected with the advice of an advisory board, which is also part of the legislation. They will serve a term of up to seven years, renewable.

The tribunal is given the powers of a superior court. There is appeal from the tribunal to the federal Court of Appeal. Although there is this quasi-judicial tribunal, if you appeal, you may well wind up in a federal Court of Appeal, essentially dealing with lawyers as opposed to other persons. Presumably, these other persons on the tribunal will be economists and businessmen.

The test of whether a merger will be allowed is whether it prevents or lessens competition substantially or is likely to do so. You have to look at a whole bunch of relevant criteria in that. You will notice many of those criteria, for example, the extent and effectiveness of foreign competition, the availability of substitutes, barriers to entry, the extent of any remaining competition in an industry, are all factors I listed in the basic model I showed you in the previous slide. These are things that the competition tribunal members will have to take into consideration in determining whether they will allow a merger to go ahead.

Even if the tribunal finds that a merger has lessened competition substantially, none the less it may allow the merger where it can be shown that gains in economic efficiency are greater than the effects of the reduction of competition. There is an efficiency defence. Even if you are

found guilty of having lessened competition substantially, the merger may be allowed to proceed where it is found there is a gain in economic efficiency as a result of the merger.

There is a prenotification provision in the federal Competition Act of either seven or 21 days before a merger. You have to prenotify of a merger where the annual gross revenues of the combined corporations exceed \$400 million or the firm or the assets acquired exceed \$35 million. Therefore, there is a prior notification requirement based on size, but size is only material in the sense that you have to let them know. Presumably, this is so you do not do anything irreversible.

Often, when a merger has been announced and things go ahead, there is a lot of money at stake, and sometimes it is difficult to reverse these things. In these cases, prior notification allows the government to make a preliminary finding on whether it will allow that merger to go ahead.

Finally, the federal Competition Act deals with what they call the abuse of dominant position. This is a circumstance where one firm or several firms are in substantial control of a class of business or a market in Canada or any subregion of Canada--again, the definition of market is relevant here--and they are engaging or are likely to engage in anticompetitive behaviour. The focus is not only on whether they have control of the market but also on whether they are engaging in anticompetitive practices. These practices can be proscribed by law if they are found to be doing so.

This is different than the previous situation. The law proved to be inoperable, if you judge a law by how many convictions you get from it. There were virtually no convictions. There was no ability to find that a company was in contravention of the law, even where it virtually controlled the whole market. We do not know what the future situation will be, but these are the circumstances.

I am not sure it is necessary for me to go through all the other things. There are some differences. More and more competition policy in Canada is focused on issues of industrial policy. It has moved away from the narrow concern with respect to whether firms are competing to the question of whether we are able to compete in the world.

This is a significant change. Canadian competition policy found its genesis in the American approach, the United States antitrust law, which was much more concerned with issues of competition in the US market. Obviously, the US was not concerned with whether it could compete internationally or whether its firms were large enough to do so.

In Canada, we find many more people are saying it is not an issue of whether we have enough competition in Canada, it is an issue of whether our firms are strong enough to compete internationally.

That being the case, there are still large areas of business where import competition does not enter the picture. In many areas, the whole service industry is not subject to import competition, yet there are still relevant issues of competition law in the control of specific markets.

10:50 a.m.

The other things on this review of exports, specialization agreements, export consortia, crown corporations and the Bank Act, are fairly explicable.

I will not bother using up the time of the committee by reviewing those things unless someone has a specific question about how the federal law works here.

The Vice-Chairman: Perhaps I should ask whether there are any questions at this time.

Mr. McFadden: I was doing some thinking here. I do not believe the witness and his staff are legal experts and perhaps this is not the appropriate time to get into all the details of the Competition Act and the Combines Investigation Act.

I have had a fast look at the jurisdictional problems of corporate concentration. It makes a brief reference to federal legislation. In the next month or so, will staff be able to give us a breakdown of where exactly federal legislation stands and the relevant provisions of the legislation? The summary we got this morning has been useful, but can we not get a breakdown, for example, of where the Combines Investigation Act has gone now, and the interrelation to the Competition Act?

The Vice-Chairman: You are referring to this document that was placed before us this morning by the research staff of the committee.

Mr. McFadden: Yes. In order for us to consider this issue, we should have an understanding of the federal law and how it works now. It would certainly give us a better idea as a committee of what we could recommend with respect to a mechanism. I do not think we want to rewrite this federal legislation and recommend how to change their law nor, I assume, do we, ourselves, want to draft a law in committee. It would be interesting for us at least to know how the federal legislation works.

I do not want to interrupt the flow of this discussion, but rather than enter into a long discussion and put Dr. Purchase on the spot on a lot of details of law, it might make sense for us to get that information during adjournment, since we will have the period of hiatus till September. By the time we come back, the members of this committee can be fully informed on federal legislation.

The Vice-Chairman: Perhaps I can refer that to our researcher, Fernando, and--

Mr. Traficante: I am not going to do it. I will ask one of the lawyers.

The Vice-Chairman: Fine. We will keep that in mind.

Mr. Foulds: We might have a quick look at what provincial statutes impinge even indirectly in the area.

The Vice-Chairman: Those that are existing--

Mr. Foulds: Yes. There is the superintendent of insurance. How does that affect competition? I do not know. It might be useful to have a look at provincial legislation that at least impinges directly or indirectly on competition and corporate concentration. I am not sure I can do all that alliteration this morning.

The Vice-Chairman: Perhaps we can get an entire overview of all the

legislation that is in place at the moment, both federal and provincial. I do not know whether we want to do that. I should take that back. Let us just put it as Mr. Foulds has indicated; that we want to look at legislation which impinges on the area of corporate concentration.

Mr. McFadden: It is very straightforward federally in the sense that there are the two acts. We can look at the provincial jurisdiction. This summary we have gone through is very useful to us today. It is just that I think it probably should not be the focus of your brief to us this morning. We could very well get into that. That is why we recommended that we go on and at a later date we should take a look at the law and get some more information on it.

The Vice-Chairman: The researcher will have a little more time to bring that information together. We will have it in our hands during the course of the summer. Perhaps we can have a look at it towards the end of the summer months.

Dr. Purchase: The conclusion that I draw from this is that when you look at market concentration and competitive behaviour, there is a fairly major piece of federal legislation already in place that deals with competitive behaviour. There may be some way in which you can relate to that federal legislation as provincial jurisdiction.

I believe you can bring a case under the Competition Act with six individuals. Any individual can register a complaint with the director of investigations. In so far as the issue of concentrated competition in a market is concerned, there has been a fairly recent breakthrough. In fact, I believe it was only a month ago that the federal legislation received third reading. After 15 years of debate, they finally got it done.

Mr. Barlow: We will solve this whole thing in a couple of months.

The Vice-Chairman: It was one of those that got lost in the shuffle.

Mr. Foulds: It makes extra billing look like a Sunday school picnic, does it not?

Dr. Purchase: In a sense, none of us knows how the future will unfold with respect to this new piece of legislation, but it is a major change that has taken place and has taken a long time to get this far. On that side of the issue, I am not sure exactly where to proceed. I must say that I am not clear, either. However, that is not, as you will say, the only option or issue we may look at.

I now want to move on to another source of concern that people have expressed, and that is aggregate concentration.

If you stand back and look at the economy, you really see two economies. First, there are a few megacorporations that own a very substantial part of the assets, and control a very substantial part of the sales, in the economy. Then there are literally hundreds of thousands of small businesses, both incorporated and unincorporated. I believe there were a little more than 700,000 incorporated and unincorporated businesses in Canada in 1983.

Mr. Foulds: Is that in Canada?

Dr. Purchase: In Canada, yes. There were something like 200,000 in

Ontario. If you take the largest 500 corporations in Canada, you will find that they control something like 68 per cent of the assets of nonfinancial corporations. There are a few megacorporations, then, and many hundreds of thousands of small businesses.

With regard to conventional economics, there is no formal economics about the megacorporation, mainly because the basic model used by economists is the one with respect to the market which I have already shown you. Who are its competitors? What are the barriers to entry, and so forth?

However, large size--that is, just controlling huge amounts of wealth--is not something that mainstream economists have really come to grips with as yet. They will report that there are no anti-competitive implications of size per se.

You may find, especially with a conglomerate, that it is a multi-billion dollar organization. It may be in hundreds of markets, each one totally different. In any one market, however, it may have many competitors, and may not have a dominant share.

Mr. McFadden: With regard to the two economies you have discussed, have you been able to secure any information as to how this would compare with the United States or Japan?

11 a.m.

Dr. Purchase: Yes, there is information on this. Our largest 100 corporations have a larger share of our economy than the equivalent 100 corporations in the United States would have as a share of theirs. In that sense, there is a higher level of aggregate concentration in the Canadian economy than in the United States economy. There are also higher levels of market concentration. Typically, concentration ratios are higher in Canada than in the United States. However, that is a bit more complicated. Those measures do not take into account import competition, so you are never sure what you are really looking at there.

With respect to aggregate concentration, if you look at it that way, this country is more concentrated than the United States. However, if you looked at the absolute size of the largest Canadian corporations compared to the largest US corporations, you would find they were not nearly as large. General Motors in the United States, IT&T or AT&T are many times larger than the largest Canadian enterprises. It depends on how you want to measure these things whether aggregate concentration is greater here than in the United States. If you measure it in terms of the total wealth or assets of the economy, you will find it is higher in Canada than in the United States.

Mr. McFadden: How about other industrial economies? I mentioned Japan.

Dr. Purchase: I am not sure about Japan. This is a sheer guess, but I would think it would be fairly high in Japan. There are very complicated issues, not only with respect to ownership but also what constitutes control and the effective relationships between corporations. As you know, they are sort of large family--not family, but the corporate organization in Japan looks very concentrated in the clusters of companies that are under general--I have forgotten the name--company or whatever they call it in Japan. I really have not investigated that issue. I am not sure Japan would be more concentrated, but I suspect it is more concentrated in an aggregate sense than Canada.

Mr. McFadden: I have read a couple of articles and have heard speakers on this who say that while Japan appears to have very large companies built around trading companies, its banks, and so on, it has a very large small business sector as well.

Dr. Purchase: Yes.

Mr. McFadden: The conventional image of Japan is that it is just a bunch of big companies. In fact, that image is wrong. I have never seen any specific figures to indicate how large their small-sized or medium-sized business sector is compared to their large conglomerates, nor have I seen the figures for other countries. I do not know whether they happen to be available.

Dr. Purchase: We will investigate that to see whether we can dig up those numbers. I imagine they are available in some form.

Again, we are at a very early stage of our own research into this issue. One of the things you will find is that if you looked at employment as opposed to assets--because you are all familiar with the fact that job creation in small business has run well ahead of that in large enterprises--it may be that more employment is concentrated in smaller enterprises, whereas more asset wealth is concentrated in large enterprises. The megacorporations of our economy are becoming more capital intensive vis-à-vis the small businesses, which are becoming more labour intensive. It is too early for me to know what to think of that, other than that may have happened.

Mr. McFadden: I wonder whether that would be the logic of the increased percentage of the work force in the service sector. It is in the large corporate concentrations, probably in the manufacturing or resource sectors, where there is a lot of rationalization and technological innovation going on, whereas a lot of the new jobs are being created in the service sector, which, in the main, are not capital intensive.

Dr. Purchase: Yes, that is quite true.

Mr. Foulds: McDonald's has a good share of the hamburger business.

Dr. Purchase: There are large organizations within the service sector. It is too early to tell whether they will come to dominate that sector as well. For example, at one time supermarket chains knocked off all the small business competition. Then suddenly, they were the victims of small business competition. Many supermarket chains ran into severe competitive problems with respect to the specialty shops and so forth. Many are undergoing a corporate rethink of their organizational structure.

Mr. McFadden: They are trying to become greengrocers.

Dr. Purchase: That is right. A lot of them have tried to recreate the small business environment within the supermarket structure. We have separate units within a supermarket and the staff often have some profit-sharing interest in how well that unit does. So you specialize in selling cheese. You almost have a cheese specialty shop inside a supermarket. It still has one corporate owner but there are several separate organizations within it.

You are on the right track in that, on the one hand, something is going on with respect to where we are creating jobs and who is creating jobs in the

service sector; and on the other hand, the increase in concentration of capital and assets in the resource and manufacturing sectors which are clearly becoming more capital intensive over time as they shed labour. However, I am not sure exactly what it means yet.

Mr. Foulds: When you talk about the megacorporation I am not quite sure what effect it has on the competition because they deal with a number of different enterprises. Is there any evidence yet to indicate that they get out of those areas of activity where they cannot be the dominant force in the market?.

Dr. Purchase: There is evidence that the companies are increasingly getting in and out of businesses. There is considerable divisional spin-off where companies were into something and are now selling out. They are not selling out the whole business, just one aspect of their business.

A lot of corporate restructuring is going on. I do not know what motivates it. It might differ from company to company. They may have thought they had competitive ability in a certain area and, after having tried it, found they did not. They may have thought they could bring some special talent to bear that just did not work out, so they are getting out. There is a great deal of corporate reshuffling going on, where divisions are being spun off by some companies and bought by others.

There is no explanation of the motivations for what you might call pure conglomerate activity, where you get into things totally unrelated in production, marketing, sales distribution; for example, owning a trust company and being in the resource business. There is no obvious reason to believe you have some talent spanning those two separate areas. There are many hypotheses, but no one knows for sure why these organizations exist. We do not know. We just know they are becoming increasingly common.

I know of no well-established rigorous theory in economics that I could trot out for you and say, "This is what professional economists believe." What we do know is more important now.

11:10 a.m.

Mr. McFadden: As the world generally is expanding its trade and as there is a clear internationalization of information flow, goods, services and everything, I am wondering whether, in terms of size, we also have to look at the scale internationally? You can say this company is very large by Canadian standards--you commented on the relative size of Canada and the United States--but perhaps you have to look at the relative size of the Canadian company as against, say, the Swedish or American company it is competing with in the world market and the resources those companies can bring to bear when competing for the available markets.

I know that gets pretty complicated, but in some industries we may choose to look at, we are going to have to look at not only the domestic market and the domestic competition but also at what they are up against worldwide.

Dr. Purchase: That is true. You do have to look at that. You have to address this question and I am not sure you can answer it in a general sense. I do not know that there is one answer to this; it may be peculiar to each circumstance.

There are certain advantages of size and what I call financial muscle in competition. This financial muscle is a very important part of your ability to compete in many industries. Your ability to raise capital very often depends on the fact that you have a large amount of capital. This is an issue in the service sector, where there a lot of what I refer to as intangible assets, where goodwill is important or where you have a large, sophisticated sales force. For example, if you have to hire a lot of engineers or a lot of technical or well-trained people to do a certain part of selling, that is a huge investment and one that has no salvage value. If anything goes wrong, there is nothing the bank can take back.

It is very difficult to raise money where the kind of asset you are trying to create has no physical existence. Clearly, this is where many of these companies that have large amounts of assets and so forth have the advantage to borrow and can do a lot of these things. If you do not already have a large amount of wealth, it is very difficult to get into or to compete in those areas.

These are all material to the question of size. Why do we have such large enterprises? One might explain it, and many people have tried to explain it, as simply the personal ambition of some people to have huge corporate enterprises.

Mr. G. I. Miller: Can small companies compete on the same basis? Is there any evidence to indicate that they can compete on that same field?

Dr. Purchase: In terms of competition, it depends on the nature of the industry. There are some examples where small companies are quite effective competitors. There are other examples where I do not think it is possible to be small and compete. For example, it is very difficult to imagine a small company competing in the automobile industry. By small, we mean anything less than several billion dollars' worth of assets. The minimum efficient scale of plant, even assuming you have only one plant, is so large that it takes a huge amount of capital even to get into that industry. Certain types of parts are a different issue.

Mr. G. I. Miller: What about the food processing industry? Is that another area?

Dr. Purchase: I am not an expert in that industry; I would have to look at the structure of that industry. Certain parts of food processing are probably relatively easy to get into. You could probably compete. In others, it might be extremely difficult and require large amounts of capital to compete.

Mr. G. I. Miller: Is there any evidence they are being manipulated by a few large companies? Have you looked at it from that point of view?

Dr. Purchase: Again, I have not looked at specific industries such as food processing to know what is going on there. There is very substantial change going on in that industry as a result of a change in consumer taste. That change in taste reflects a whole change in the lifestyle of individuals and obviously that creates some problems for the way businesses have been organized in the past. Sometimes small companies can respond more quickly and more effectively to a change in the environment than can large companies, but where it requires simply amassing large amounts of capital to do something, large companies have a significant advantage.

Mr. G. I. Miller: Can the province come up with any tools to assist the small business?

Dr. Purchase: Yes. There is a whole list of programs and so forth whereby we attempt to help small businesses. Often those programs are directed at the problem of access to capital. If you think about where we typically intervene, it is with respect to helping businesses with the access to capital. The recent budget of the Treasurer (Mr. Nixon) expanded that to some degree into the service sector as well, as you know, with the small business development corporations program.

Mr. G. I. Miller: It would be nice to see Ontario's payments put into something--for example, the domed stadium, where the province is contributing a lot of money and we can grow the products here, but we cannot get into those markets. When I go to a game, I pay \$2 for a little bag of peanuts we could grow here. There has to be some way of opening that door so that we can get our own fair competition going.

Dr. Purchase: Again, I am not an expert on this industry, but creating brand names and consumer goodwill through product differentiation and so forth is a very important competitive aspect, not necessarily in the processing side per se but in the selling of prepared foods and so forth. That is typically something that requires large amounts of capital, and if you fail to create a brand image or to win consumer appeal, there is no salvage value, so it is very difficult to raise money to do that. You cannot get it from a bank.

The megacorporation, sheer size, is not addressed by the federal competition policy, because it is based on the market-competitive model I outlined earlier. There are some economics of the corporation which I can describe to you and which you may find other economists in the universities and so forth will talk to you about if you call witnesses from the universities. There has been an issue of why corporations exist. In principle, everything could be done via the market. The corporation is a substitute for the market in a sense. Each relationship between individuals, either owners of capital or labour, could be the subject of a separate contract.

11:20 a.m.

A corporation is a sort of generalized contract with its labour force, where it says: "We will not contract with you to do each specific task. We will contract with you over a certain period and you do whatever tasks we want you to do in that time." Corporations are in one sense an alternative form of organization and allocation of resources, and they are a type of substitute for the market. Increasingly, people have various types of concerns. People are concerned that corporations are now spinning out a lot of activities. They no longer want to have, for example, their own in-house staff on a lot of things; they want to contract for that.

On the labour side, this is a disintegration of this corporate organization in moving back more to the market where you contract for each separate type of activity. On the capital side, these organizations are getting larger. There is something going on, but again, I really do not know where it is going nor do I have definitive views on what it is.

In terms of the growth of the corporation, you see various types of growth strategies, and the largest corporations are by no means all the same. Some things are happening. However, clearly, over time both in the United

States and Canada, large corporations have become more diversified. Some of them diversify into different products, but they are still related to some core technology or some core production process. For example, a company may produce many different auto parts, but it is still basically an auto parts producer. You would call that a diversified company and in some statistics that would be regarded as a diversified company.

At the other extreme of diversification, you get a company that may be in the resource business, manufacturing liquor and selling financial services. On the face of it, they would look to be several quite different activities, and they clearly are. That would be more of a pure conglomerate organization.

There are other organizations which as they grow are pursuing a strategy of going into more markets within a nation, with different regional markets. If you are selling in the Toronto market, you may decide to sell in Vancouver, in the western market or in the eastern market, and then at some stage you may decide to go multinational and sell in the US. The largest corporations in the world are very typically selling in most of the countries of the world.

The other possibility is that as you grow larger, you may pursue another strategy of integrating vertically, either forward to take over the distributors of your product or backward to take over the suppliers or input suppliers for the product and to become highly vertically integrated. Typically, that was a strategy used by resource companies, to become vertically integrated.

All of these strategies are not often pursued simultaneously by all corporations, although they may be. Often corporations begin to grow along a particular line. If they have become multinational or if they become vertically integrated, that may also make them multinational, or they become conglomerate organizations which may or may not make them multinational. Some people have argued that they are substitute strategies. I am not clear myself on whether that is true. At some point, these organizations get so large that they are pursuing all of these strategies, but in principle they are each separate in different ways of growing and getting bigger. In the final analysis, however, it is the absolute size that is impressive.

What makes them do these things? Typically, the arguments I have seen are that the corporate centre, if you like, the people in charge of running the entire corporate empire, believe they have some kind of underutilized resource.

For example, what makes a firm go multinational? It has been argued that it may possess a certain patent or technical knowhow, a product image or brand name such as that of Coca-Cola. The best way to exploit the full value of those things is to set up in the market yourself and produce there, as opposed to the other option you have, to license someone else to do it.

Licensing, which is a market arrangement, involves you in trying to figure out the value you bring to the situation as opposed to that of the person who is going to be your licensee. Rather than try to figure that out, most companies have decided to produce in the market. That may be why multinational organizations come about.

It is also often used as an explanation for the vertical integration of companies. For example, if Eaton's is selling appliances, it may decide that what sells those appliances is its own goodwill and its own corporate name as opposed to those of the manufacturer. It may decide to integrate backwards and

take over the production of appliances for sale in its own stores.

Some people argue that there are underutilized management resources; in large corporations, there may be such good management teams that they could acquire more businesses and run them more effectively. There are all sorts of theories on why these firms grow to a large size. However, I would say that none of them is the standard view of the economics profession. They are all possible and they are all no doubt true in some respects, but there is no standardized view.

Mr. Foulds: Ego and dreams do not come into it at all.

Dr. Purchase: It is just assumed that they should.

There is in your package an article that appeared in the Financial Post. It has preliminary organization charts for some major Canadian conglomerates. These are not even complete, in the sense that many of these companies own other companies or parts of other companies. You can often have a corporation that owns literally hundreds of pieces of hundreds of companies. This is an example of the conglomerate organization, although in the case of Bell Canada Enterprises Inc. it has until recently stuck fairly closely to the kind of core technology or core ability to deal with certain things.

For example, a corporation may prefer to operate in a regulated industry environment. In Bell's case, it would be used to dealing with regulators. Perhaps that explains why TransCanada PipeLines is part of Bell. Who knows? I really do not know the answer to that.

Typically, a corporation will feel it has certain kinds of expertise and will diversify into those areas. If its expertise is very generalized, it may well be in wholly diverse areas. That was said simply to give you a preliminary indication of the nature of these corporations.

11:30 a.m.

As we move from market concentration and issues related to that, we are moving away from issues of competition policy--as that has historically been understood--to questions of industrial policy. We now are dealing with the fact that these are very large corporate entities and that they make lots of decisions about how the economy is to be structured. As they make their decisions about corporate strategy, they inevitably affect the economic structure of the country. People are perhaps inevitably interested in those who are making these decisions.

There is the related issue of the so-called separation of ownership from control. This is more of an American than a Canadian issue because there are not that many widely held corporations in Canada listed on the Toronto Stock Exchange. I believe only 61 out of 300 companies traded on the Toronto Stock Exchange are what might be referred to as widely held. This is not the case in the United States. There are many more widely held corporations. I believe 450-odd corporations on the Standard and Poor's 500 index are widely held.

It has been hypothesized that where you have a widely held corporation, there is separation of ownership and control, that the managers of the corporation are effectively in control and the owners do not have much control over their actions. That does not appear in Canada where the companies are often closely held by the owners. They also effectively exercise control.

However, there are no doubt some instances where managers are the ultimate controllers.

We have already talked to some degree about corporate size and financial leverage. My view is that these corporations are so large and have such large assets that they can clearly attract large amounts of capital to do whatever it is they wish to do. That financial leverage in a sense is the name of the game; being able to borrow large amounts of capital and bring them to bear on whatever enterprise on which a corporation might be embarking.

While there is not necessarily any competition issue, there is clearly an issue with respect to the types of decisions that are being made and their total influence on the economy.

I have already mentioned trade policy and there is an overlap. Many people argue that as we get ready for the possibility of a bilateral free trade agreement with the United States, we will need a transitional period to allow our companies to amass the expertise and access to capital we will need to take on US competitors. There is an issue of size in international competition that has been mentioned.

Another set of concerns has been raised on and off during the past 15 years as to whether you have to be a very large-sized corporation to undertake research and development. There is a debate about this. Many people have argued that research and development is so expensive now and requires such large laboratories and such extensive staff that you need a large corporate size to be able to do research and development effectively. On the other side of the case, others have argued that most of the new inventions have come from small businesses and not from large ones.

Similarly, on the export side, the argument often is that you need a large-sized business to be able to export effectively. The reason is related to your financial muscle, your ability to hire all the expertise you need to break into a foreign market, whether it be legal expertise, expertise in dealing with foreign governments and so forth.

Mr. McFadden: One point I was going to make was about the large size. It is relative, is it not? I might have \$100,000 to invest, but to attack the American market I need \$400,000 more, which is small in comparison to the Bronfmans but large in my terms. It is such a relative business.

Our research and development is in the same boat. The thing that has struck me from what I have observed is that you find bright people developing products from computer software right through to some product, some innovative toy or gadget that can go on the market. In the end, what seems always to do them in is the inability to get it to market. We are able to get the research and development done. What tends to happen is that these bright people will put all their family assets or whatever they have around into the research and development end and then have a problem going from that stage to market.

Dr. Purchase: My PhD thesis was on mergers and acquisitions. You are right. The proper focus is on the ability to market; it is not on the ability to invent. I argue that the major competitive advantage of many of these large enterprises is their ability to market, or again, where marketing involves the expenditure of large amounts of capital to develop brand names and so forth, their ability to get that capital. If you go to a bank and say, "I have a great idea and all I have to do is convince the world I can create this brand

name," you are not likely to get it. They like something they can kick the tires on.

Mr. Foulds: They can what?

Dr. Purchase: Kick the tires. It has to be a physical thing. Then they will lend against it. If it is an idea or an attempt to create, as they say, goodwill, or if you have to hire people who are very expensive and have to make a commitment to them that they are going to be employed for at least a year--

Mr. Barlow: We used to have the Innovative Development for Employment Advancement Corp.

Dr. Purchase: --there has to be some kind of commitment--the problem you have is borrowing money to do that. You cannot indenture those people, so the bank has nothing it can reclaim if you fail. That is a big problem. That is where a major corporation has an advantage. If it already has large amounts of assets, it can borrow money and bring that or its own internal cash flow to bear on this issue.

I found that you often have a takeover or an acquisition of a small company in such industries because the large firms in those industries have the marketing ability and can take the invention or new product of a small company and sell it nationally and internationally. They have the muscle and marketing expertise to do it. That is one of the reasons why you often see a lot of acquisitions of small companies by large companies, which dominate the number, although not the size, of takeovers. I think you are right.

Mr. Foulds: In Canada, if I understand correctly, governments traditionally have intervened to try to develop the economy in the research and development area in the development of products. What you are saying leads me to think that perhaps they should be doing more research into marketing and going into a marketing consortium for small business.

Dr. Purchase: Yes, that is true. We have the richest incentive scheme for research and development in the world. No one does more. The problem is that once we have invented something, we cannot sell it. That is the next stage. I agree with that.

Mr. Foulds: I once suggested that to John White when he was Minister of Industry and Tourism in 1973.

11:40 a.m.

Dr. Purchase: This is quite true. At some point, I am sure that will become a more conventional view.

The Vice-Chairman: Comparing our banking system in this country with the banking system in the US, on a general hypothesis the extent of corporate concentration in this country--as you have said, 61 out of 300 companies are widely held. Is there any relationship between the banking system that evolved in this country vis-à-vis the banking system in the US, where it is more widely dispersed? There are many more banks in the US. How does that compare with the corporate concentration in this country? There seems to be some sort of relationship between financial clout, as you have stated--it seems fairly obvious--and the level of concentration in the economy.

Dr. Purchase: That is a very interesting question. I do not know whether I should hazard an answer.

The Vice-Chairman: It is hazardous.

Dr. Purchase: It is an important issue. It is something on which I have not done anything in my own work or read anything in the work of my staff. It could be an important issue, but I do not have an answer for you on whether there is a relationship.

The Vice-Chairman: Obviously, access to capital is the whole question. In developing products for small enterprises, having access to capital has always been a difficult thing in this country. That is something everyone wants to address in some fashion. Governments of every jurisdiction want to address that. Some of the moves of the Treasurer (Mr. Nixon) with regard to the service sector are an attempt to address that.

Dr. Purchase: Yes. I also think the change in financial regulation in part is meant to address that issue, to bring more competition into the provision of financing for business.

Mr. McFadden: It seems we are comparing, Mr. Chairman, in the light of what you said in this exchange. We have the constant tension in the financial area over the desirability of more competition in financial services. In the United States, you can have breakfast with three bank vice-presidents. In a lot of places, if you want to set up a business, you can phone the banks and they will produce any number of executives. Most have less authority than the typical bank manager here, but you can get right to the top quickly.

The down side is that they are not very secure institutions and the number of American financial institutions that fail every year is quite large. In a downturn, it goes almost into the hundreds. In Canada, we have opted for more security. In the latest run, for example, the government was promoting more competition and getting more banks on the market, and the Northland Bank and the Canadian Commercial Bank failed. Look at the tremendous uproar this created. Nobody sat back and said: "That is the price of more competition. It is too bad. Let us get some more banks started, so they can get out there to compete. So what if two banks fail?"

The tendency has been quite the reverse. It created a tremendous furor. "How it is that any banks could ever fail in this country?" The Americans have an entirely different point of view. We have made a decision to encourage concentration of ownership among financial institutions because we want the security that goes with it. That is one of the catch 22s in this country. I do not think you can have a large number of small institutions and expect them to be as secure and sound as the Royal Bank of Canada or any of the other Big Five, Big Eight or whatever you want to talk about.

Mr. Foulds: The chairman's point is still a good one; that is, the access to capital.

Mr. McFadden: It is still a good one. We are paying the price for the security we want. Canadians demand a lot of security, far more than Americans. You find it in our social policy. It is right across the board. I do not think any of us is prepared to trade that in. It is the Canadian way and we are paying a price for it in the financial services area because we have tended to be more restrictive. We tend to deny entry. We want only people

with very large resources to go into it. That has an impact on the small businessman looking for a smaller financial institution. We understand his problem. Let us say you go to Thunder Bay. Which financial institution has its head office in Thunder Bay? If Thunder Bay were in the United States, it would probably have a couple of banks.

Interjection: Locally-owned.

Mr. Foulds: The state bank of Minnesota.

Mr. Barlow: The state bank of Thunder Bay.

Mr. McFadden: There you are. They would be locally owned and would understand the problems of small businessmen in Thunder Bay who wanted to start businesses. That does not mean the manager of the local Toronto-Dominion Bank branch does not understand it, but the fact is that his policies are set in Toronto and not in the north. It seems to me this is a problem across Canada. As Canadians, we have made some choices and I believe we have made the wrong ones, but we have made them.

Mr. Foulds: They have been made without our fully realizing the implications.

The Vice-Chairman: The key point is access to capital--risk and production capital--for growth. That is certainly a problem we have to come to grips with.

Mr. Foulds: Major institutions will readily invest in risky enterprises as long as they are large and in Brazil. Historically, they have done so.

Mr. McFadden: They can absorb the shock if they go bad. That is what they are absorbing now.

Mr. Foulds: We are paying for it.

Mr. McFadden: Exactly.

Dr. Purchase: I agree.

Mr. McFadden: "I agree," whatever was said.

Dr. Purchase: I really do. I think the points made are all very accurate. However, there are decision points. One has to decide; it is not clear-cut one way or another as to what you want. Obviously, we would like to have more access to capital for small businesses, They are inherently more risky. That is why they do not get money.

The Vice-Chairman: Diversification in the economy is one of the desirable objectives for this province. There is a relationship between access to capital and diversification of certain financial services. If we are heading in that direction with regard to policy, something has to follow that to create access to capital.

Dr. Purchase: Yes, you are right. We are trying to do that. There are government programs through which we try to provide capital directly, or at least incentives for the provision of capital, to small businesses. Also, one of the motivating factors for the changes in regulation of financial

institutions has been to increase the level of this, but with prudence for the issue of security and stability in the financial system. That is so important. We have attempted to allow more competition among financial institutions. This is the tension inevitably created; we do not want anyone to fail, but we want them to do some very risky things.

11:50 a.m.

Aside from questions of industrial policy, which you are properly considering, debating and pursuing and which from my perspective are important, there is the issue of large aggregate size. The question that arises most often is whether very large, wealthy corporations that influence large areas of the economy, even though they may not be focused on a particular market, have undue political influence.

That is an issue I leave with you. It is certainly there. Many people raise it and you may hear it again.

There is also the question of the social responsibility of large corporations. Sometimes you hear references to their responsibility for the communities in which they may be operating. What is their responsibility with respect to specific groups such as women or minority groups of one form or another? We often have pieces of legislation and programs by which the government attempts to influence these things. The corporation is a very important social institution. It influences our lives in many ways. Again, the issue is, do large corporations influence our society in ways we want them to do? I raise that without being able to provide you with any guidance. It is an issue with which you may be confronted.

Mergers and acquisitions have recently received much attention, partly because one can earn so much money if one happens to be involved in that business. Megamergers and so forth involve billions of dollars. As I said before, this issue relates partly to the question of market concentration, corporate concentration within a particular market. That is where there is a horizontal merger, a firm acquiring one of its immediate competitors. That would be reviewable by the tribunal under federal competition law. If it exceeds the threshold limits, they would have to prenotify the government and so forth.

Vertical mergers occur when a company buys either a supplier or a seller. I believe vertical mergers would also be reviewable under the federal competition law. Conglomerate mergers occur when a company buys something. It may not be related to what it is currently doing. It is simply acquiring businesses. This would not be subject to federal competition law. It is part of the aggregate concentration issues.

The question of mergers and economic efficiency has been raised. There are many different views here. Many people regard mergers and acquisitions as useless activities; since they are not new investment, they do not increase efficiency. As an economist, I say each case has to be judged on its own merits. You cannot make a blanket statement on whether economic efficiency is increased. Certainly, multibillion-dollar organizations buying other multibillion-dollar organizations leave open the question, at what size would they become efficient?

It is difficult to see that there are clear efficiencies. None the less, there may be reasons for these organizations to exist. Alternatively, there may be no negative effects, which may be another way of looking at it. You may

not be able to find any particular reason for it being allowed or promoted, but you may not find any reason it should be stopped either.

Mr. Foulds: Is there an argument that there can be an increase in efficiency the larger the corporation?

Dr. Purchase: Yes. Many people argue that mergers allow for some economies of scale, let us say in production. For example, maybe you can rationalize your production plant, although that seems a little less probable to me. If you have two plants, you might have to shut down one and allow a larger output in another one. That is one way in which a merger may lead to a more efficient production, where you shut down plants you do not need and allow longer production runs in some other plants.

You may have economic efficiency which results because management can be brought to bear. You can get rid of management in a larger unit or you may be able to utilize some assets more fully and more effectively in the context of a larger organization.

Mr. Foulds: Is this argued mainly in manufacturing or is it argued in any type of corporation, whether that is service or manufacturing?

Dr. Purchase: Typically, you see it in manufacturing. I have seen the arguments with respect to manufacturing activity and not so much in the service sector, but I assume they could apply equally in service sectors.

Mr. Foulds: I wonder about that because the contrary argument was put with regard to large government by the same people. Government is a type of service.

Dr. Purchase: The larger an organization gets, clearly the more organizational costs there are to running it. I know because I work at one. That is true and that has to be taken into account. When you have a huge corporate empire, there are organizational costs running that empire because there are problems with the flow of information and with the flow of orders. All types of things can go wrong, as you know.

Mr. Foulds: That happened to Chrysler. It did not know what it was doing. That is why it got into trouble. It forgot its main objective was to produce cars. It can happen both in the private and public sectors.

Dr. Purchase: It can happen in both. In most of the these private sector companies, a person familiar with working in bureaucracy would never notice the difference in moving from a government bureaucracy to a private sector company because they are larger. In fact, the largest corporations in the world are many times larger than many governments.

Mr. McFadden: One of the things that strikes me about mergers is that when you talk about economic efficiency, there are employment consequences with most mergers. I was chatting with a fellow who was involved with Petro-Canada right from the start in its legal department. He was recounting to me that the success of mergers with Petrofina and BP led to quite a major decline in employment in total. Legal departments, all kinds of head office people, distributors and service stations were consolidated.

I suppose you could argue that there is some economic efficiency there in the sense that you have eliminated a group of head office people. You have reduced the number of service stations and you have done a lot of things of

that nature. The downside of that is that the companies which were merged were profitable. It was not that they were all losers. They were making money, but putting them all together threw thousands--I have seen different figures but it was definitely in the thousands--of people out of work who were probably productively employed.

There is some efficiency in that you have probably not lost any sales and you have fewer people producing those sales. In that way, you have an efficiency. I guess the question mark is in terms of employment and what you achieved out of it as a country, because those people before were not uselessly employed, as far as I know. If those companies were successful, they would not have been acquired and we would not have paid the prices we did for them.

Mr. Foulds: There is an efficiency for the country as well as an efficiency for the corporation or for the economy as a whole.

The Vice-Chairman: If the company is not widely held, then what is the objective, the desirability of having that company more profitable if fewer people share in the wealth creation, if you will? It becomes more efficient.

Interjection.

The Vice-Chairman: We have different views and we take into account all these different theories.

Dr. Purchase: Of course, the core issue here is that, clearly, there is an efficiency, the benefits of which accrue initially to the new owners of the corporation. They can earn more money with fewer costs.

Some economists argue there is also a potential efficiency to the economy generally. They assume those resources which were displaced by the merger will be re-employed somewhere else so that, in total, they would again be in the community, if you wait long enough.

Mr. Foulds: It is a temporary dislocation.

Dr. Purchase: Yes. When they say, yes, there is an economic efficiency, they are assuming those resources will be re-employed in some other activity and, on net, there may be a gain in efficiency.

Whether or not you accept that argument, it is not a technical issue in a sense. It is how you feel about it. Do you think it is an appropriate thing to do?

The Vice-Chairman: We are going to have to adjourn. There is a five-minute bell for private members' business. We are being called on to take a vote. Let me say quickly that we thank you for appearing before us and we will probably need your services some time in the fall.

Dr. Purchase: That would be fine. Is it not necessary for me to come back and finish this presentation? We would be happy to do so. This was meant as an overview of the things we are looking at and will try to pursue more if we can. We will be happy to come back and help you out further in whatever way the committee deems necessary.

Mr. McFadden: It is unfortunate we did not get to the last page on jurisdiction.

Dr. Purchase: My understanding is that your staff prepared an excellent paper on the question of jurisdiction.

Mr. Foulds: What we might want to do is think about whether the House will be sitting next week.

Dr. Purchase: I am at your disposal. Whenever you wish me to be here, I will be here.

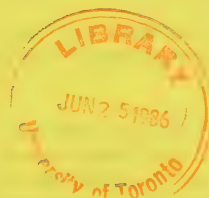
The Vice-Chairman: We will contact you.

The committee adjourned at 12:03 p.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
ORGANIZATION

THURSDAY, JULY 10, 1986



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

VICE-CHAIRMAN: Cordiano, J. (Downsview L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Bossy, M. L. (Chatnam-Kent L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

McFadden, D. J. (Eglinton PC)

Morin-Strom, K. (Sault Ste. Marie NDP)

Sargent, E. C. (Grey-Bruce L)

Stephenson, B. M. (York Mills PC)

Substitution:

Jonnson, J. M. (Wellington-Dufferin-Peel PC) for Miss Stephenson

Also taking part:

Mackenzie, R. W. (Hamilton East NDP)

Clerk: Mellor, L.

Staff:

Bond, D., Research Officer, Legislative Research Service

Tricante, F., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, July 10, 1986

The committee met at 10:24 a.m. in room 228.

ORGANIZATION

Mr. Chairman: There is a quorum. This committee adjourned a week ago, apparently with an understanding on the part of some members that Dr. Bryne Purchase would be returning this morning to finish his presentation. That understanding was not shared by all members of the committee and was apparently not shared by Dr. Purchase who understood he was to be contacted if we wished him to come back. The clerk and I were only aware of that some time after 10 o'clock and it turns out he is not able to come back this morning.

The only business we can discuss this morning is the business of further scheduling this committee. I should inform members that there will be a meeting of the steering committee of the select committee on economic affairs later this morning. As a result of a meeting of the whips, which is going on right now, I understand that committee will be assigned a period of about five weeks, starting next week, to finish its report. That will take it to mid-August. This committee previously decided that it wished to meet starting the second week in September to study corporate concentration and expects it will take about five weeks to complete that study leading up to approximately the opening of the House. The only other question that we can open for discussion is the issue of planning for September.

Mr. Haggerty: Are we planning to have witnesses appear before the committee?

Mr. Chairman: Yes, that would be understood. I apologize for my absence in the last two weeks. I know that this committee has already set up a steering committee which should meet in the near future to discuss that in some more detail, having digested some of the information from Dr. Purchase and, more particularly, the jurisdictional problems which had not been reached in the discussion last week, as I understand it. It may be that there is nothing more to say on that issue as well, unless someone has something to say.

Mr. Haggerty: Is it going to be in the context of the Treasurer's (Mr. Nixon) recommendations in his budget report? We are dovetailing it when we are looking at corporate concentration and taxes.

Mr. Chairman: The Treasurer's spring budget referred the issue of corporate concentration to this committee with few or no specifics. It would seem to be the case that it is up to us to decide how extensively we want to be involved. It is something we could ignore, or if we wish, it is something we could take three years to deal with. I do not think we have been requested by the Legislature to even report back on this issue.

Mr. Haggerty: Are we looking at the financial institutions when we say corporate interests, or are we looking at northern Ontario, particularly the mining sector? That may be the area of concentration we should look at, the closing of mines.

Mr. Chairman: I guess that is a decision we have to make.

Mr. Haggerty: I am looking at the possible candidates who will be sitting as witnesses, coming before the committee. It is pretty difficult for us to arrive at any decision this morning. There may be two or three days in August when the committee will take a look at the areas we want to look at.

Mr. J. M. Johnson: Do you know the names of the people on the steering committee?

Mr. Chairman: Mr. Haggerty, Mr. McFadden and Mr. Foulds.

Mr. J. M. Johnson: Could some of the questions that have been raised be resolved by the steering committee?

Mr. Chairman: They can be, although Mr. Haggerty is raising very basic issues right now as to the direction the committee should take.

Mr. Haggerty: We should still have some direction as to the areas we want to look at. We have five weeks for that. I am looking at when the Treasurer brings in his economic forecast in the fall. That is the area we should be looking at, whether we can dovetail into it.

Mr. Ashe: Do you feel confident that the committee is going to get five weeks? I got the impression in our informal discussion that it may get a little or none in the way of time. You are now identifying five weeks for this subject. Do you really have a strong indication that the committee is going to get approximately five weeks this summer?

Mr. Chairman: All I know is that my own whip showed me a chart she had laid out and I think our party has perhaps the greatest number of problems with scheduling people. She showed me a chart which showed this committee sitting the second week in September. Bear in mind that is not a complete five weeks, because each party wants two days out of that for a caucus meeting.

Mr. Barlow: Jack is the deputy whip. Have you seen a schedule for the summer?

Mr. J. M. Johnson: I think the draft is being finalized today, likely within an hour or so.

Mr. Chairman: I noticed a representative of my whip's office was sitting in the committee room. She is not here now, but she did not seem to show any anguish when I repeated those dates. She just got up and walked out.

Mr. Bossy: Mr. Chairman, I show a little anguish because right now I feel, from what you have said, that only leaves me two weeks from the time we recess, if we do get out of here today or whenever it might be, until we come back in the fall. This is just an example of how tight we are plugged in.

10:30 a.m.

Mr. Chairman: I have approximately the same situation.

Mr. Ashe: (Inaudible) May 2, 1985, that this was not a 26-week holiday in 52?

Mr. Chairman: Mr. Bossy, I had occasion yesterday to do something

that politics is really all about, which is to have a tricycle race down the main street of my community with the federal member, who is a Conservative. Of course, they have already started their summer break, and he informed me that he has exactly one week of committee work between now and October, and he gets paid more than we do.

Mr. Ashe: It is 50 per cent more.

Mr. Chairman: That is the reality of it.

Mr. Bossy: I know we are dealing with the reality of a different system, because I experienced the other system, and you scheduled your own time for the summer. You were not tied to any committees during the summer, only those trips that you might like to take.

Interjection.

Mr. Chairman: I do not think we are accomplishing anything unless--

Mr. Haggerty: I still want to go back. I am afraid I may have some misunderstanding when you say "corporate concentration, I guess it is. I am looking at the mandate that is set out by the Treasurer (Mr. Nixon) in this area, and I do not find that as part of our review until we can get into that economic review that he is willing to put down, unless we can come in and lead something into that area.

What he says here is that, "It is recommended that the standing committee on economic and fiscal affairs be asked to consider: Guidelines on budget secrecy; the reform the estimates procedures; review of Legislative provision of supply and the use of Management Board orders...." That is some of them.

The other one is to deal with the prebudget review.

Mr. Chairman: That is correct, but the second budget that he presented, on April 23, referred the issue of corporate concentration to us. I think you are quoting from the October budget.

Mr. Haggerty: The one from the fall of 1985, that is right.

Mr. Chairman: We will get to work on the mandate of the October budget next October. We will have regular sitting hours during the course of the session.

Mr. Haggerty: During the course of that, but I thought we could perhaps get into something leading into that. We are getting into an area that may take longer than two or three weeks. If you start to sit in the middle of September, September 15 or beyond, you will not get your five weeks. It is difficult.

Mr. Chairman: I am not sure to what extent the Treasury would be amenable or co-operative to our getting involved in that earlier, but it may be that if the committee wishes to, it is up to the committee. Is there any discussion on that? I think you are suggesting we do that as opposed to even looking at corporate concentration. Is that what you are saying?

Mr. Haggerty: I am just trying to get something so we will not be doing one and then have to jump into the other one and leave the other sitting there. I would like to see some consistency in it.

Mr. Chairman: I do think there is any problem. We have done that to some extent with trade. I do not think there is any problem with corporate concentration as an ongoing problem that we are not going to solve.

Mr. Ashe: Our sermon on the mount will not change very much in that regard.

Mr. Chairman: I think Mr. Haggerty is suggesting we start right in to deal with the budgetary issues and basically not deal with corporate concentration.

Mr. Morin-Strom: How do we do that? I thought submissions for the budget did not start to come through until late October or November.

Mr. Chairman: I do not think we would have a very good opportunity to get resources available in the summer either.

Mr. Bossy: We have had several meetings, but we are still at the point of trying to arrive at an agenda that we are trying to set for ourselves. We do not seem to be any further ahead now than we were at the first meeting I attended. This is the way I feel. We should target and then pursue what we target, to try and get the committee off the ground and have specific areas that we want to concentrate on, but we do not seem to be able to arrive--we are still looking at the budget or whatever, corporate concentration. Even in the corporate concentration we have to target a certain area. Unless we determine we are going to pursue that area and call witnesses, we have to be very sure of our ultimate goal.

Mr. Chairman: I did not have the opportunity to hear Dr. Purchase, and I have not had an opportunity to review his--

Mr. Bossy: He was very good for general information.

Mr. Chairman: But in your mind, there is no sense of targeting in any event?

Mr. Ashe: You are talking about trying to narrow the whole heading of corporate concentration. I am sure one of those who think if we try to cover the whole waterfront, it is too much. You have to try to narrow it down, and it seems to me you have one of two areas, or possibly both, and that is financial institutions and manufacturing, probably in reverse order--manufacturing, which is really the main part of the economy of Ontario in totality.

You can argue the mining sector, the lumber sector and so on with regard to northern Ontario, but if you look at the province in total, we are a manufacturing province. That is first. Second, we are the mainland financial institution area, albeit we compete with Montreal in that regard. I think it has to be one or both of those two areas and not get into the service sector and not get specifically into the mining or lumber sector, which are important, but are not predominant in the economic picture of Ontario.

Mr. Chairman: Is there any response from northern Ontario?

Mr. Morin-Strom: I think they are important to the economy of Ontario. If you add the auto industry and steel industry, you have got the majority of Ontario's--

Mr. Ashe: I consider the auto industry to be a part of manufacturing. As far as that goes, you can include steel there if you want, albeit it is predominantly a base metal industry.

Mr. Mackenzie: If you just follow the three strands you have in your document, you are going to end up with a fair amount of corporate identification in any event, the various industries to deal with. If you have to go looking for that, it will become obvious once you take a look at the kind of concentration and ownership you have got and what is happening in mergers.

Mr. Haggerty: With a two- or three-week period of time to do something in detail, I feel we should stick to one particular area, financial institutions or the industrial sector, but we should not be able to take such a broad area. If we are going to have witnesses appear before us here, and we get into different areas, we will have a state of confusion or no consistency in the line of thinking for the committee.

We can pinpoint either one of those and then go into something in another area later on during the winter break or something like that, dealing with the mining sector or pulp and paper. If we are dealing with the financial institutions, we should tackle that first. There is no doubt that some of these other areas will crop up in our discussions, but I think we should single out certain areas first to confine it, and then go into the other areas, so we do not have such a broad thing and never accomplish anything.

Mr. Mackenzie: Only eight or nine families control 300 of the 600 top stocks in the market.

Mr. Haggerty: Are you talking about the Bronfman family again or one of them?

Mr. Mackenzie: I am talking about the eight or nine. You will find they cut across manufacturing, finance and everything.

10:40 a.m.

Mr. Morin-Strom: It seems to me we should not do the selection as to what particular focus we are going to have. I would not like to see our focus being just on financial institutions. I would see that as being a particularly difficult one to come to grips with, and it is not as relevant to the interests of the people in the province in general.

We should be doing an overview and getting expert opinions on what aspects of corporate concentration are causing the greatest concern for distortions in the marketplace and get some input first, before we determine what aspect we should focus on primarily. In particular, I am concerned about whether we should be concentrating on this issue of a limited number of families or very large corporations, eight, nine or whatever, controlling such a large segment of our whole economy, or whether the issue is particular industries that are highly concentrated.

As Dr. Purchase has pointed out, is it market concentration that is the problem, or do you want to look at absolute size and aggregate concentration of corporations across many industries, financial services, retailing or whatever? I do not think we know at this point what we should be concentrating on; we should get some expert opinion on that.

Mr. McFadden: I am sorry I was delayed. I was in another committee.

Mr. Chairman: You have not missed much.

Mr. McFadden: I was next door finalizing a report that is to go to the Legislature today.

I have two comments based on the gist of the discussions here. It makes sense for us to do some focus at least on the financial services sector in view of the proposed amendments to the Securities Act. If they go through, they are going to have a major effect on the ownership pattern and organization of the securities industry in Ontario, which in turn will have a major effect on our ability to finance a lot of things in our economy. Therefore, I do not think it is in any way a sideshow; it is a very important issue.

For example, if this committee were to take a careful look at the financial services sector--not just financial institutions--which would take in trust companies, brokerage firms and so on, we could easily spend six months or a year doing that. I do not think it is a small area or one that is unimportant. In fact, if you were to take a look at the number of jobs created in Ontario just in terms of the people working in that sector, you would find that is one of the major reasons why parts of Ontario have low levels of unemployment, particularly in the Toronto area.

The other issue is the impact of concentrations of ownership, which we discussed last week with Dr. Purchase--is Dr. Purchase here today?

Mr. Chairman: No. Apparently there was a misunderstanding, and he is unable to be here.

Mr. Ashe: He will not be here; he is not available.

Mr. Chairman: We did not realize that.

Mr. McFadden: The only thing I was going to suggest was that Dr. Purchase in his presentation last week made some interesting points about what is happening worldwide. For those of you who were not here, we spent a fair bit of time on the patterns in other countries. The difficulty we are facing, for example, is that while in Canada we may have a fairly sizeable concentration of ownership in the pulp and paper industry, let us say, that may not be all that relevant in the sense that our companies here are competing against foreign manufacturers that are giants.

It seems to me we would have to go sector by sector and figure out how each sector is set up. To take an example, there is a hell of a difference between the legal profession, where you have virtually infinite competition and variety, everything from one-person firms up to ones with maybe 150 to 200--

Mr. Ashe: Is that with or without QCs?

Mr. McFadden: With both, actually.

Mr. Morin-Strom: And without advertising.

Mr. McFadden: And without advertising--or any of the professional services, which are very competitive and broad, as opposed to the

manufacturing or resource sector, say, where we have developed large concentrations of ownership.

My concern is that when we tackle that subject, it is also one that could go on for some time. It is significant. It is something that is probably worth looking at. There may be an important public policy point to be made in there. It may relate to only certain industries where we have an unhealthy concentration. The conclusion, on the basis of what Dr. Purchase and others said, is that we may need that concentration to develop sufficient resources to compete worldwide. Who knows for sure? Obviously, even from Dr. Purchase's submissions last week, the ministry itself is not entirely certain as to the economic impacts, benefits or liabilities.

If we are going to get anywhere by the end of October, which I understand is the instruction we are about to get from the Legislature, we ought to narrow our focus to some extent, otherwise we will wind up having very little of importance to say on anything much. Since the Securities Act now is before the Legislature, and we know we have jurisdiction in that area and we know it is going to have a major effect on that whole industry, it makes sense to look at the financial services sector for sure.

As for looking at overall impacts of concentrations of ownership and mergers and acquisitions, I could see spending some time getting expert information on what is known worldwide about the effects that has on the economy and why it is happening; but to go industry by industry and start analysing the auto, steel, pulp and paper and forest product industries and everything else, we would be looking at a commission of inquiry that could go on for months and years.

I recommend that we do two things. First of all, we should get an overview of the economic impacts of corporate concentration in a general way, which Treasury and other economists could provide us with, but we should focus in on the financial services sector, an area where we have jurisdiction and which is now before the House.

Mr. Ashe: A question for clarification: The end of October referred to by Mr. McFadden, is that before or after the fall election?

Mr. Haggerty: I agree with David's suggestion. I think that will fall within the mandate set out for this committee by the Treasurer (Mr. Nixon), because when you get into financial institutions and suggest changes, there are going to be tax changes in the legislation that is coming forward. There could be a decrease in taxes, or there could be an increase, and there could be a loss to the Treasury, or there could not be. But that is an area that would be within our mandate to look at. One of the things we should start with is that particular area of financial institutions because it is within our mandate.

Mr. Chairman: From what I am hearing, I am getting the impression that there is a general view--I have not heard it from the New Democratic Party, but I am hearing it from the other two parties--that financial institutions are the major concern and that perhaps--

Mr. Morin-Strom: I disagree with that very strongly. The Treasurer did not view the financial institutions as being the major concern. As I recall what he had written, his focus was more on conglomerates and on the industrial side and the effect on the marketplace rather than on what was happening in banks and trust companies. Maybe I have a different impression from the others in terms of what the Treasurer was emphasizing.

Mr. McFadden: I agree with you. I think it would be worth while to investigate that. Speaking for myself, that is a valid issue to be looked at, and if we could get on with it, fine. My worry is that we are stuck with an October 31 deadline. Over the three or four weeks we will have at our disposal, I am not sure we are going to be able to do justice to what you have just said. What I am trying to come up with is maybe an overview and then zero in on at least one industry--we might expand it to two industries--where we know we have jurisdiction and where we could make a valid comment on at least that industry.

If we were to take on all these corporate empires and try to analyse them all, we would be here next year still working on it. If we could get rid of that artificial deadline, it would not matter; but we are supposed to go on and deal with the economic outlook in November. I am trying to come up with a bite-sized chunk that will enable us to report something meaningful to the Legislature by the end of October.

Mr. Chairman: Incidentally, the bell is apparently for a vote on Bill 55 and has no time limit.

Mr. Haggerty: If you want a motion on that, I move that the first item we deal with will be financial institutions and the proposed changes in legislation. I am sure that is going to develop and lead into other areas of corporate concentration.

Mr. Chairman: The first item we deal with will be financial institutions?

Mr. Haggerty: That is correct, and the proposed legislation; we can comment on that and go on from there. We have to start some place.

Mr. McFadden: Would you consider amending that to "the financial services sector"? "Financial institutions" often refers to trust companies. "Financial services sector" could cast a broader net, and we would catch all of them.

Mr. Haggerty: That is right; we could go into that area.

Mr. Chairman: The first item we deal with will be the financial services sector as related to what?

Interjection: The Securities Act.

Mr. McFadden: Or corporate concentration.

Mr. Chairman: The first item we would deal with will be the financial services sector. Do you agree with that, Mr. Haggerty?

Mr. Haggerty: I feel comfortable with it; it is within the guidelines--

Mr. Morin-Strom: Excuse me; could we adjourn for the vote? I would like to get Jim Foulds, who is on the subcommittee and who got into more of the discussions; I would feel more comfortable if he spoke to this rather than me.

Mr. Chairman: That is in order, Mr. Morin-Strom. We will adjourn for the vote. We will return after the vote.

The committee recessed at 10:50 a.m.

11:21 a.m.

Mr. Chairman: Let us get started again. We will deal with how we want to delineate this problem. We have Mr. Haggerty's motion to the effect that the first item we would deal with concerning corporate concentration would be the financial services sector. We have had no debate on it yet. I invite Mr. Haggerty to open the debate.

Mr. Haggerty: I was looking at the recommendations or guidelines or mandate given to the committee as stated in the 1986 budget. I feel the motion put forward falls in line with the mandate that says: "The legislative committee will also be asked to deal with other issues of significance to the province and the nation. For example, there is a growing public concern about corporate concentration and ownership. In many cases, this concentration is being fed by mergers and takeovers." Some of the financial institutions have been taken over through corporate concentration. Genstar and Canada Trustco are in that group. Legislation is pending from the Minister of Financial Institutions (Mr. Kwinter) in this area. I think this is a proper approach for us to take.

Mr. Foulds: I have a couple of questions. I am concerned that we might become obsessed with financial institutions over which the province has at best split jurisdiction. When we are looking at corporate concentration, I also want us to look at some samplings in the manufacturing and the resource sectors. That seems to me to be a tall order.

Mr. Haggerty: I read the paragraph from the budget.

Mr. Foulds: I know you did read it. You have been doing it for three weeks. I pay tribute to your tenacity.

Mr. Haggerty: I am sticking to that mandate.

Mr. Ashe: He got his marching orders and he is going to follow them.

Mr. Foulds: You are crueler than I am.

Mr. Haggerty: In the current 1986 budget, the Treasurer (Mr. Nixon) said: "I question the merit of these mergers as well as the dangers the resulting concentrations pose for our community. I am asking the new legislative committee to examine this issue and to bring to the Legislature its recommendations for an appropriate Ontario response."

Mr. Foulds: I suggest with all respect--

Mr. Ashe: Due respect.

Mr. Foulds: Due respect, that the mergers are not only in financial institutions.

Mr. Haggerty: That is right.

Mr. Foulds: I do not want us to become obsessed with financial institutions. I am not sure I am happy with your motion.

Mr. Haggerty: It is as broad as it is long. It opens the door and

eventually these things will feed into the other areas all of us are concerned about.

Mr. Foulds: We can go on until 1996 the way the select committee on Hydro affairs did. The government conveniently shut it down when it got a majority and we did not come to the crucial item of its relationship to the government. I am afraid the same thing is happening here.

Mr. Barlow: Can I ask a supplementary?

Mr. Foulds: I am finished for the time being.

Mr. Barlow: I wonder whether this is part of the accord. Perhaps Mr. Foulds should not be arguing against it.

Mr. Foulds: It is not part of the accord.

Mr. Barlow: It is not; I just wondered, for clarification.

Mr. Foulds: Even if it were I would--

Mr. Ashe: You will also be interested in knowing that the select committee on energy did not get any time this summer. Maybe it is in limbo again. I understand the government is not enthusiastic about giving it more time.

Mr. Foulds: Government is always going to be unenthusiastic about it.

Mr. Chairman: We are getting off the topic.

Mr. McFadden: As we said before the committee broke for the division bells and before Mr. Foulds had a chance to join us, the difficulty we are facing is the tight deadline. If the motion for the House is adopted today, we have to report to the Legislature by October 31. Not to have finished our hearings or studies; we actually have to finish whatever study we are going to do, write a report and get it to the Legislature by October 31.

We start our work in about the second or third week in September. There is no way in the world that any group of people intending to report with any credibility can tackle the whole area of corporate concentration and structure and everything in a matter of three or four weeks, write a report and get it to the Legislature. It makes sense, therefore, to choose an industry over which we have at least some jurisdiction and which is now before the House. At least we could report our views on that. The financial services sector is one of those.

One thing we could spend some time doing would be an overview of corporate concentration in Canada and abroad and the reasons for it and get an economic overview of advantages and disadvantages. It would be impossible for us to go much further than that and tackle other industries. It would be strictly dreaming. As I mentioned before, we are not going to be able to go off and investigate the auto industry, the pulp and paper industry or any other industry in any detail concerning why it has done it and what effect it has on employment, marketing, exports and everything else.

This is a massive subject. My feeling is we have to come up with some form of a delineation that will allow us to make a meaningful report to the Legislature on a matter of current importance by the end of October. It would

be quite valid for us to say that this is a subject that could be investigated by the committee later this year or during the course of next year. I do not think it is feasible by the end of October.

The final thing I will comment on is that the steering committee also felt that during November, as part of our look at the overall economic outlook for Ontario, we should look at single-industry towns and industries that are in trouble and so on and try to see what the province can do to assist the communities that are being affected or the industries that are having trouble. Perhaps some of the concerns that my friend the member for Port Arthur (Mr. Foulds) raised could be dealt with in November and December when we are looking at the whole area of economic outlook.

Mr. Bossy: We do not mention agriculture very often but we know that the entire agricultural area is in an extremely serious condition in Ontario. There are implications now of financial institutions coming down on properties and land, whether the institutions are the banks or our own credit corporation. What is it doing to the overall area and what implications may it have for vertical integration? This is a serious situation that we must look at. We already have thousands of acres in Ontario alone that are not cultivated because of the financial situation, the extension of credit and receiverships and what the banks are doing with these receiverships, going to companies such as Maple Leaf Mills. These are things that should be investigated. What is this going to do to the overall economic situation and to the agricultural industry? How many more companies are going to integrate agriculture vertically from start to finish? That is something we should look at.

Mr. Chairman: This would be included in Mr. Haggerty's motion by implication because financial institutions are involved in farms as much as anything else.

Mr. Bossy: It broadens it.

11:30 a.m.

Mr. Foulds: I do not quite follow--

Mr. Bossy: I want to add something that might clarify it. It is my impression from what I have heard throughout the meetings here that we have not set out to zero in on anything. We can zero in on an aspect of an industry and the financial implications or involvement that it has. Financial institutions have a bearing on every business, every corporation and every person. That will tie it in. If we zero in on an industry, we will know how far that industry branches out and what implications there are, such as how many takeovers we do not know about or how many smaller companies have been absorbed because of the financial institutions involved, or the pushing of the financial institutions into corporate takeovers to protect their own derrières.

Mr. Foulds: As I understand it, if we look at corporate concentration in the financial sector, we are not looking at how the financial institutions foreclose on farmers and other companies. That does not do anything in terms of concentration of the financial institutions. If you want to get into a broad economic study of how financial institutions influence various sectors of Ontario's economy, then I am with you, but that is another matter. Mr. Haggerty's motion, as I understand it, is a relatively narrow one, i.e. looking at corporate concentration in the financial sector. Basically,

that means, does one trust company take over another trust company and who owns it?

Clerk of the Committee: The motion read that the first item be the financial services sector as related to corporate concentration.

Mr. Haggerty: That is following the mandate of the Treasurer.

Mr. Foulds: I quit.

Mr. Ashe: In earlier discussions when I was talking about it--it has been expanded umpteen times since--it was found that it is such a broad issue that we can talk about a one-year mandate or a 10-year mandate and still not finish. Therefore, we have to narrow it down.

I indicated earlier that I thought we should do one sector or the other, manufacturing or financial institutions, or both, only to narrow it down. On that basis and knowing that we do have time--I saw the final schedule. I do not know whether you have had a chance to see it; I saw it during the break and we have roughly the time frame you are talking about. Presuming there is no election, in which event there will not be any time available anyway, in practical terms you are talking about only four weeks. You cannot get into a great deal of depth. I am not sure that there are not, as you have already indicated, Mr. Chairman, two or four days out of that for caucus meetings of one, two or perhaps all three of the parties.

On that basis, I am supportive of the motion but I would leave it to the steering committee, working with staff, as to how far it feels it can go into the subject with the time frame we have available and whether that includes getting into the area of ownership of others because of the operations of a financial institution. That is fine, but it all comes down to how much time is available and realistically what might be accomplished during that time. It has to be relatively narrow. We are forced into it; there is no choice.

Mr. Chairman: Regardless of what happens to this motion, I presume the committee is going to leave a lot of nuts and bolts on the planning of our work in September to regular steering committee meetings throughout the summer.

Mr. McFadden: In adopting the motion, and I assume that is the spirit in which the motion was made, in the initial period we may want to have Treasury and other people such as economists come back who might be prepared to elaborate on the report Dr. Purchase brought us last week with respect to economic impacts and corporate concentration in general, without doing a study of any particular industry for weeks on end. There are probably some general economic conclusions we could have a look at, based on government economists or perhaps on two or three private economists who may have a desire to come here or with whom we can communicate who would come and give us the benefit of their experience and research.

That might be something we might want to do initially and then follow up with some hearings and investigation of the financial services sector. If other members want to look at manufacturing in general, all we could likely do is deal with it in the introductory period.

Mr. Foulds: We are not all that far apart. Why do we not initiate the overview that Mr. McFadden talked about? We can do financial institutions, but leave our options open. I would very much like a commitment that if this makes it obvious we should look at the manufacturing and resources sectors, we

have an understanding that will happen and we do not fool around about it. In that spirit, I will be glad to support the motion because it will get us the overview and I think it is very important that we get the overview.

Mr. Chairman: Your suggestion is that Mr. Haggerty consider amending his own motion to indicate that following an overview, the first item we deal with--

Mr. Foulds: That would give us the framework to make intelligent decisions on--

Mr. Barlow: If times permits.

Mr. Foulds: Let us hold the issue to a year from now.

Mr. Barlow: I said "if time permits."

Interjections.

Mr. Ashe: When did you say?

Mr. Foulds: A year from the fall.

Mr. Ashe: You really think the accord means something.

Mr. Chairman: The mandate of this Legislature goes to 1990, so we do not have anything to worry about. Do you have any problems with it?

Mr. Haggerty: The key point is to give our staff some direction to bring in detailed information in this area. It is going to take time to get it before we can sit down and get into a detailed discussion about it.

Mr. Chairman: Dr. Purchase has indicated an interest in an ongoing involvement in this area. We have also asked the Ministry of the Attorney General to give us some information on jurisdiction that will be of an overview nature. Perhaps your motion should read, "In conjunction with an overview on the matter of corporation concentration, we will deal particularly with the financial services sector." Is that what everyone is saying? "In conjunction with" or "following."

Mr. McFadden: I do not know whether we have to be that specific. We are not creating a law here. It struck me that we might first look at an economic and legal overview of corporation concentration and its impact on the Ontario economy.

Mr. Chairman: Which we have basically started already.

Mr. McFadden: Which we have now begun. We would set the initial week. From there we would investigate the financial services sector in particular. That could lead us to other things but we would go at least that far.

Mr. Ashe: No doubt it will.

Mr. Chairman: Does everyone understand the motion?

Clerk of the Committee: In conjunction with an overview of the economic and legal impact of corporate concentration--

Mr. Ashe: On the Ontario economy.

Clerk of the Committee: --on the Ontario economy, and if time permits, investigate, in particular, the financial services sector.

11:40 a.m.

Mr. Chairman: Does everyone understand that? Are you ready for the vote? All in favour? Unanimous.

Mr. Foulds: How will the committee go about deciding whom it calls, what specialists, what experts, besides ministry and university people.

Mr. Chairman: Mr. Bond is racking his brain right now. The steering committee, of which you are a member, will have an early meeting with him and we can flesh out some ideas at that time. I think we will have a similar membership to this committee on the select committee on economic affairs, which will be meeting as early as next week if the House rises today. These steering committee meetings should not be difficult to organize over the course of July and August.

Mr. Foulds: I will not be around from July 25 to August 18.

Mr. Chairman: You will not be in Washington with us either on July 21 to July 24.

Mr. Foulds: I am not on the other committee.

Mr. Chairman: That is a good point. Obviously, the steering committee meeting should be held next week. We will arrange that it will be held. All three members are here.

Mr. Foulds: I have to be in town on Tuesday in any event and I can stay over to Wednesday.

Mr. Chairman: How is Tuesday?

Mr. Haggerty: Tuesday is all right with me as long as I know ahead of time.

Mr. Chairman: Fine. In the afternoon?

Mr. McFadden: We have the select committee meeting. I hope we will be discussing that in a minute.

Mr. Chairman: Subject to decisions that might be made by the steering committee meeting of the select committee, which is scheduled to start as soon as this meeting adjourns, let us presume we will have a steering committee meeting over the lunch hour next Tuesday.

Mr. Foulds: I have an appeal before the health services appeal board at 11 a.m. I do not know how long it will go; so can we make lunch at 12:30?

Mr. Chairman: Does everyone agree with 12:30?

Mr. Haggerty: That is all right with me, or one o'clock.

Mr. Foulds: I think they will be sick of me by that time.

Mr. Chairman: Is there any other business for this committee to discuss? I think this has turned out to be a fruitful morning.

Mr. Haggerty: We made some progress.

Mr. Chairman: Is there a consensus that if the steering committee feels that is of merit, it could go ahead and do it?

Clerk of the Committee: We do not have any budget for it. David is available to you.

Mr. Chairman: We will have to discuss that next week at the steering committee meeting.

Clerk of the Committee: I forgot the budget.

Mr. Chairman: You are being handed a budget which deals entirely with matters in the period of time before we come back to the House. Mr. Morin-Strom mentioned briefly when Hansard was not on the issue of the possibility of having consultants, which is not included in the budget. I open the meeting for discussion of the budget. Certainly over the long haul, I know this committee will obviously have to have some consultants and so on.

Mr. Haggerty: Is there any possibility that we can get some person from Treasury who may work with us here?

Mr. Chairman: Yes, Treasury is most anxious to be helpful, Dr. Purchase, for instance.

Mr. Haggerty: Do we need a consultant around on a regular basis?

Mr. Chairman: Yes.

Mr. Foulds: Probably, but we cannot decide on whom and at what expense at this time.

Mr. Haggerty: We have research staff here and from the Treasury.

Mr. Morin-Strom: As I recall in the free trade committee, we commissioned four studies and went to a broad variety of economists to make specialized studies on the subject in which we were interested. I know Fernando Traficante played a big part in designing the terms of reference for those studies, more so than any of the committee members, but it resulted in a variety of perspectives on various aspects of the subject.

Maybe we should be looking at that to supplement on the hearings we are going to have, particularly on the financial institutions case, which I view as likely to be quite a complex and probably dry subject. It is going to be of some difficulty for members to get a grasp of, and it might be helpful to have somebody who has studied that subject in the past to provide us with some input.

Mr. Chairman: Your point is well taken. I apologize to the committee for not having suggested that this be included in the draft budget.

Apparently, there has been some consultation at the head table and it is suggested that we should be looking at a round figure of \$75,000. Is that right, Mr. Traficante?

Mr. Traficante: That was the approximate amount spent on the last four.

Mr. Chairman: That was for four different studies.

Mr. Foulds: All we need to do at this time is decide on the figure. It does not necessarily have to be spent.

Mr. Chairman: That is right. It is a global amount.

Mr. Foulds: We need to have it in order to do the work if we want to. Rather than debate the nitty-gritty of what consultants' reports and so on we need now, that obviously could be a decision that we make as a result of the initial work of the staff.

Mr. Haggerty: You need to have those handed in today, do you not?

Mr. Foulds: You have to have it handed in today so that the Board of Internal Economy can approve it.

Mr. Chairman: I will have to go to defend this next Thursday. Mind you, we will have the benefit of the steering committee meeting on Tuesday.

Mr. Haggerty: You will have to have a pair of kneecaps that are wooden, because you are going to be on your knees all the time. Did somebody suggest a figure of \$5,000?

Clerk of the Committee: It was \$75,000.

Mr. Chairman: That was based on the fact that four different consultants were retained at a total cost of about that for the free trade committee. It is up to this committee to decide whether we are really going to be looking for four different consultants to prepare something, or something perhaps a little more modest.

Mr. McFadden: The problem we are faced with now is that we really do not know what we want anybody to look at. It is possible staff may have virtually all the information we may need. On the \$75,000 figure, if we look at what the select committee spent on consulting, it involved four studies, two of which were fairly detailed and the other two were models that were developed.

We are working on a very tight time horizon so that we are probably not going to be able to retain a consultant to spend four or five months looking at it. It is going to be at the very most probably a month's or six weeks' study. Consequently, unless we were to spread this money around, I am not sure we would need as much as \$75,000, given the support we could probably get from staff.

11:50 a.m.

I do not know how the Board of Internal Economy is approaching budgets today, whether it is being generous or pretty careful. I recommend that we pass a general figure which we think might be reasonable and try to defend it

as best we can. I do not know that we would need as much as \$75,000, given the time horizon we have. Maybe \$25,000 or \$50,000 would be adequate, but staff may feel it could take \$75,000 to do the research. I do not have a figure because I do not know what we are going to be asking anybody to do.

Mr. Traficante: If I recall, what involved the considerable expense last time was the two special studies that were done, which were more detailed. The largest portion of those costs were, in the one case conducting a fairly extensive survey and in the second case a smaller survey, but personal interviews, which involved travel. Some of that might be involved, but it is unlikely that both would be required.

Mr. Foulds: We could justify a figure of somewhere between \$40,000 and \$50,000. As I said, we need not use it if, on the initial recommendation and result of the overview, we find we need one detailed study and one minor study. If we do not have it in the budget before the House reconvenes, and if we have to report by the end of October and we do not have something in there, we run the danger of doing some pretty superficial work. I would rather not waste the month of September doing superficial work.

Mr. Haggerty: Is there any advantage to be gained from the committee in Ottawa that was reviewing a similar program or policy direction that we are looking for? I am talking about corporate concentration. There may be some background information that would be useful to us. There has probably been some consulting work done in that area.

Mr. Chairman: We are in the process of seeing everything we can from Ottawa. The report is on the way and there is other material here this morning that we can peruse.

Mr. Haggerty: There may be some valuable information there that we can use.

Mr. Chairman: The staff will obviously have to look very carefully at that before we retain someone to duplicate it.

Mr. Barlow: To add to what has already been said, I think we should have a figure and I would make a motion, if you wish, of \$50,000 and it is there if we need it. If we do not need it or have not time to utilize a proper study, then we will not use it.

Mr. Chairman: Mr. Barlow moves that we adopt the draft budget that we have in front of us with the addendum of \$50,000 for outside consultant studies, which totals \$83,455.

Is there any debate on that?

Mr. Haggerty: What was that figure?

Mr. Chairman: That is adding the \$50,000 to the budget you have in front of you. The budget has no allowance for travel. There does not seem to be any need for it in this matter.

Mr. Foulds: I was wondering how I was going to get here, but I notice that is not in the budget.

Mr. Chairman: You can travel here. We are not going to go to exotic Thunder Bay. All those in favour?

Motion agreed to.

Mr. Chairman: Is there any other business?

Mr. Morin-Strom: Related to the last budget item, perhaps we might ask Mr. Bond to come back next week to the subcommittee with recommendations on possible terms of reference on what aspects of the subject we should ask for focus on, perhaps in consultation with Mr. Traficante, whom I think has done a study on financial institutions previously for the library. He would likely have some good input in terms of where we may want to focus.

Mr. Chairman: Request received. We will expect some information later.

Mr. Foulds: As a result of the steering committee, some of that would be going on in any event.

Mr. Chairman: It is a good idea. Is there any other business?

The committee adjourned at 11:55 a.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

TUESDAY, SEPTEMBER 16, 1986

Morning Sitting

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Stephenson, B. M. (York Mills PC)

Ward, C. C. (Wentworth North L)

Substitution:

Callahan, R. V. (Brampton L) for Mr. Ward

Also taking part:

Morin-Strom, K. (Sault Ste. Marie NDP)

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Financial Institutions:

Davies, B., Deputy Minister

Parrish, C., Manager, Policy, Planning and Legal Services Section

Wilbee, J. J., Superintendent of Deposit Institutions

ERRATUM:

Mr. McKenzie should be Mr. Mackenzie throughout this issue.

ONTARIO LEGISLATIVE ASSEMBLY
STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
SEPTEMBER 16, 1986, A.M. SESSION

The committee met at 10:09 a.m. in committee room 2.

MR. CHAIRMAN: Let us get started, if we may. We have a very fascinating agenda for this Committee over the course of the next several weeks.

As the Committee members will all be aware, we have been asked by the Legislature to report on corporate concentration by the end of October, and that seems a rather Herculean task. It may be that our report might indicate that we will want to continue looking at the subject. But in any event, for the next several weeks we intend to look at this subject as thoroughly as we can. And before we start this morning, Franco Carrozza, our clerk, has some comments to make on the agenda.

THE CLERK: Briefly, to bring you up to date, the new agenda is the up-to-date one. There are a few individual groups that could not appear; those number 10. I will give you that a little later.

There is an extra individual group, the Canadian Co-operative Credit Society, who will send in a brief. There were two investment dealers that we invited, Wood Gundy and Burns Fry, who were not able to find some arrangements with our time and they had to decline appearing. That is their statement; I did not--if you wish me to pursue any other individual, please let me know.

The other individuals, Merrill Lynch, is still discussing. They know our dates; they will try to be here if they can. The Ontario Labour Congress is not with us, but they told me that their views are much similar to the Canadian group, so they will be representing them.

Imasco has told me that their views will be presented by the Trust Association. And we are still trying to speak to the Angus group, that is Mr. Black. Unfortunately, he is not in the country, and we are trying to get some other official to give us some indication if they wish to appear.

This agenda is the up-to-date one. I will try to get the rest of the groups as soon as we can.

MR. ASHE: Mr. Chairman, I presume then, having brought the one we got last week and today's, that we are not hearing from United Food and Commercial Workers this afternoon?

THE CLERK: No, we will not. They have changed their date to a later date. They will appear on October the 2nd at 10:30.

MR. CHAIRMAN: Do you have a copy of today's version of the agenda, Mr. Ashe?

THE CLERK: Also, the other change is from Mr. Jackman. He has requested that he comes on September the 30th. We had him a day or two earlier than that.

MR. CHAIRMAN: That is because of the conflict with the. . .

THE CLERK: That is correct.

MR. CHAIRMAN: . . . caucus meeting.

A SPEAKER: And Thursday is off, then?

MR. CHAIRMAN: That is right. Thursday of this week, at the moment, we have nothing scheduled.

A SPEAKER: I mean of next week.

MR. CHAIRMAN: Yes.

MR. McFADDEN: I think that the area where we have a complete gap is among investment dealers, from what I can see here. We seem to have some representation from the banking community, trust companies. . .

THE CLERK: And also the insurance.

MR. McFADDEN: . . .the insurance industry. I take it that is going to be in writing, although Trilon does have insurance interests, of course, in CrownX. But the area where we--and of course, so does the E.L. Financial group also have insurance interests. But we seem to be totally missing anybody from the investment dealers. And you are trying, as I understand it, but they are declining. Is that where we are at?

THE CLERK: That is right. I also called--part of that group was the Investment Dealers Association. They declined to appear. We approached--the Chairman suggested we go to Wood Gundy and Fry, the dealerships themselves. And we had a tentative date for Wood Gundy, but something came up and they had to decline appearing.

Now, I am still speaking to Burns, Fry and they have not given me a date as of yet.

MR. McFADDEN: The remarkable thing in a way is that the investment dealers are the people who expedite all of the mergers and acquisitions, and they certainly have a major role in the whole area of corporate ownership. And if there is any concentration, they are certainly major agents in that.

It would seem to me clearly to the benefit of this Committee if we could at least talk to them in terms of their

strategies and the directions they see this going in. Now, I do not know if it is a question of scheduling or it is a question of reluctance to come, but I would certainly think we should try at least to get one or two of the merger and acquisition houses to come if we possibly can. Their association may not be perhaps that relevant, but certainly I think it would be very instructive for this Committee to hear from them in terms of their observations on the trend in the marketplace.

I hope they are not thinking that we are investigating them. I do not know if you get the idea that they feel that we are somehow investigating them. I think what we are trying to do is get their overview of what is going on in the marketplace, and certainly as a Committee that would be a major blind spot if we do not have companies with their kind of experience and background available to us to give us some advice on what they see the trend in the marketplace being.

MR. CHAIRMAN: Well, we will certainly keep trying. And it seems at the moment to be a scheduling problem, Mr. McFadden. We have obviously still got gaps in our schedule, and I imagine it can be rectified.

Mr. Ashe.

MR. ASHE: Yes, Mr. Chairman. I have been looking at the schedule, and I see we have got lots of gaps, that is for sure. There are seven days only with organizations scheduled to come. And even at that, on many days it is just one so far scheduled.

Following on what Mr. McFadden said, I agree that I think some of the work of the Committee would be rather less than complete if we do not hear from some of the major financial institutions in that sector, that is to say in the brokerage business, because as Mr. McFadden very correctly points out, they are in most cases the people who make it happen. And I think they can also be very helpful--I do not think we should try to either scare them away or entice them on the basis that we are not interested in their own industry, because frankly I think that is another one where you have fewer and fewer companies becoming bigger and bigger. But surely, part of that has to be the proponents--or the end result of some of these consolidations, amalgamations, call them what you will--that they should be trying to sell, if you will, the advantages of their size to the marketplace. And you know, if they are not prepared to do that, in many cases we may be drawing improper or incomplete conclusions that would be to their detriment overall.

MR. CHAIRMAN: Obviously, we cannot come to any thorough conclusions without talking to them, and we will.

Mr. McKenzie.

MR. McKENZIE: I notice also that we do not have anybody down from Credit Union Central. They should be at least involved in this operation. But what I am really wondering, Mr. Chairman, is

whether we are not playing some kind of a Pollyanna game here. I do not know what, in three weeks, with the kind of schedule we have, we are really going to come up with in something as important as corporate concentration, even if we are just starting with the financial community. And I have really serious reservations as to what the purpose of the exercise is, given, you know, the kind of schedule that we have got and the kind of timeframe we have got.

I think the issue is extremely important, but I am not sure we are going to be able to do anything in three weeks of hearings and one week to write. I am not sure what we would end up writing, unless there is a real explosion of information.

MR. CHAIRMAN: Mr. Carrozza has a reply.

THE CLERK: Mr. McKenzie, I spoke to Mr. Guss. He is the main principal with the Canadian Co-operative Credit Society. What originally happened, the letter went to this organization. They directed us to the Ontario branch, which we contacted by letter and by phone. They informed us that they at this time had nothing to tell us, and they directed me to please speak to the Canadian organization, which I did.

I spoke to Mr. Guss three times last week, and he is very interested in coming but unfortunately could not have the time to appear, and he is going to send us a briefing of his main concerns. But we tried to accommodate to his time, but unfortunately he could not make it.

MR. CHAIRMAN: All right.

MR. McKENZIE: Well, it is obvious we have got to do something to concentrate the issue and give it a little more profile than we have done or it is just going to be a wasted exercise.

MR. CHAIRMAN: Well, as you know, Mr. McKenzie, we have squeezed this activity to some extent because of our desire to do a thorough report on trade on behalf of the Select Committee on Economic Affairs. The important thing now is to get busy and give it some profile.

Mr. Morin-Strom.

MR. MORIN-STROM: Given the critical importance of banks, particularly the five major Canadian banks, to the whole financial system in Canada, I am surprised that we do not have any of the banks represented here. I do see there is a Bankers Association representative, but I think we should have approached each of the five major banks and asked for individual representations.

MR. CHAIRMAN: Of course, banking is not a provincial jurisdiction, Mr. Morin-Strom, it is a federal jurisdiction.

MR. MORIN-STROM: I am not questioning that we should

interfere in the jurisdiction of banking, but bankers have such an overview of the whole financial system that I think that their perspective as major players on what they might view as problems facing the sectors that are under provincial control may have been very, very valuable to us, and I am sure that they have high expertise in this whole area.

MR. CHAIRMAN: Mr. McFadden.

MR. McFADDEN: Mr. Chairman, I have some real worries about what we are going to manage to get done between now and October the 6th. I know we have a target date for the end of October for the filing of our report with the Legislature.

It seems to me that it is going to be difficult for us to make a determination as to what gaps in information we have until after we have started hearing from a substantial number of the witnesses. Obviously, the members of this Committee are all starting from different bases of information on this whole topic. The worst thing I suppose we could do is to write a report that essentially lacks information and is prepared in essential ignorance. We could do some real damage, it seems to me, to this industry if we start shooting off without having done our homework.

But I think it is probably premature at this stage. We may well find that the witnesses we are getting will give us the bulk of the information we need. I am worried about that, and it may well not happen, but perhaps what we could do, Mr. Chairman, is get started on the hearings. I know the witnesses are here now, so perhaps we should not hold them up while we are debating this issue.

But maybe what we should do over the next week is see where things are going, how much information we have got, how many questions are really being raised, and we may find that we are simply going to have to hear from a lot more people before we as a Committee are comfortable with what we are doing. Because the last thing, I think, I want to be part of, and I know our party and I am sure the other members of the Committee want to be part of, is a report to the Legislature that is inadequate or inaccurate.

So maybe we could go ahead with the hearings now, but with the caveat that we will take another look at this within a week or 10 days and decide if in fact we can effectively sit down on October the 6th and do a final report. I think that is the decision we are going to have to make relatively shortly.

MR. CHAIRMAN: Do you have any comments on Mr. Morin-Strom's suggestion that we could be approaching individual banks or perhaps individual trust companies?

MR. McFADDEN: Well, I think that we have obviously approached a number of individual companies here because CrownX and Trilon and Brascan are all coming. Now, as I understand it, the choice of those companies was that they are in the trust company field and

that is an area of clear jurisdiction for the province. The banks clearly are a federal matter under the Constitution.

I suppose it would be of some value to see the banks, and I would think that it would be worth having . . .

A SPEAKER: The Canadian Bankers Association . . .

MR. McFADDEN: They are coming. No, but I mean individual representatives of the banks might be useful. I think the umbrella organizations frequently have a different perspective than the individual institutions within their organizations.

The other thing is, I notice the insurance industry is singularly light. I hear we are getting a brief from one association, but no appearance. CrownX, of course, have insurance interests, and Trilon, as I mentioned earlier. But insurance clearly is a provincial responsibility and I would wonder if we perhaps could not go more aggressively and talk to the insurance industry and see if individual companies would come, because they, even more than banks, have a provincial jurisdiction involved with them.

MR. CHAIRMAN: Mr. Bond informs me that prior to inviting the Canadian Banking Association, individual banks were polled and they felt that the Banking Association would be the best vehicle for expressing their views. Perhaps we can reassess that after we hear from the Association.

Yes, Mr. Ashe.

MR. ASHE: A question of interest, and nothing to do directly, other than, how is this operating this morning in the context of the normal Hansard situation versus the--I see we are getting the word-by-word . . .

THE CLERK: I do not know the arrangement. It is strange to me.

MR. CHAIRMAN: Well, we have Hansard here. The people sitting at the press table, I do not know who they are.

MR. ASHE: Well, I think that is Hansard too.

THE CLERK: No, that is transcripts.

THE REPORTER: We are the court reporters. We are providing the transcripts for the Committee. It is arranged through Hansard.

MR. CHAIRMAN: We have two Hansards?

HANSARD REPRESENTATIVE: Yes. These people are providing a backup for us today because we have a lot on our plate and we want to try to get to it as quickly as we can. But we are handling

it.

MR. CHAIRMAN: Oh, great. Let us get started.

Mr. Davies, if you could come forward. And I understand you have some people that will be accompanying you, and perhaps you could introduce them to the Committee and have a seat right here. And with your permission, we will also distribute your presentation as you are getting ready to speak.

Carry on as soon as you are ready to start, sir.

MR. DAVIES: Mr. Chairman, as you indicated, I have with me several of my colleagues from the Ministry of Financial Institutions. If I could take a moment to introduce them, first, on my right is Colleen Parrish, who is the Head of our Policy Planning and Legal Unit within the Ministry; beside her is Jim Wilbee, who is the Superintendent of Deposit Institutions; and to my left is John Weir, who is the Superintendent of Insurance for the Province of Ontario.

Both the superintendents, unfortunately, have other obligations that they have to attend to at the noon hour, so they may have to leave between 11:30 and 11:45 or somewhere thereabouts, but Ms Parrish and myself will be available right through to your concluding time.

I believe that this document that has been described as one has been circulated now to all members of the Committee, and with your indulgence, I would propose to go through it. It provides an overview of the Ministry and its activities, and it focuses in on one aspect of concentration of ownership that I think might be of relevance to this Committee's deliberations.

MR. CHAIRMAN: I think it is very satisfactory, in fact necessary. Thank you.

MR. DAVIES: In my remarks today, I intend to deal with the issue of corporate concentration in regard to financial institutions both in general terms, that is, as a matter of public policy of concern to all levels of government, and in a very specific way, in particular the immediate focus of one of the principal activities of the Ministry of Financial Institutions.

To give some perspective on the Ministry's approach to the issue of regulation of financial institutions, I shall begin with a brief overview of the mandate of the Ministry and its organization. Then, turning to the matter at hand, I shall review the major issues surrounding the question of financial institution ownership, summarize the principal conclusions of the more relevant task forces and committees that have examined this matter, and then turn to examining in some further detail certain features of the Loan and Trust Corporations Act, or Bill 116, that is currently before the Legislature.

Looking first at the mandate of the Ministry, in March of this year the government announced the creation of a separate Ministry of Financial Institutions to increase Ontario's domestic and international competitiveness in the financial services sector and to improve protection for the consumer. Financial institutions are operating in a rapidly changing global financial environment, and as the activity of these financial institutions becomes more international in scope, they become extremely sensitive to international economic forces.

In playing their critical role in directing the economy's savings towards those sectors investing to support economic growth, financial institutions must, in this environment, be flexible and innovative in designing the financial instruments that best suit the needs of savers and investors. At the same time, we must ensure that this adaptability is not at the expense of the stability of individual institutions, the financial system in general or the depositors. Confidence in the system must be maintained.

The task of the regulator is to ensure that consumer protection and related confidence in the system is maintained and enhanced, while at the same time helping to ensure that the efficiency of capital markets is not impeded. This task is complicated by the fact that regulation of financial institutions involves overlapping jurisdictional boundaries between federal, provincial and even international environments, placing a high premium on effective communication between governments.

Just as an aside, Mr. Chairman, you may recall that back in, I believe it was June or July, I appeared before this Committee and provided a separate paper that addressed the jurisdictional issues in this field.

An additional important consideration is that the holder of the liabilities of deposit-taking institutions is typically a small investor who has neither the resources nor the expertise to carefully assess the risks associated with that liability. These individuals could be described more as savers than investors.

The Ministry works to balance the desirability of flexibility and innovation in support of economic growth and efficiency with the need to protect depositors and investors and ensure stability in the system. The Ministry addresses these matters by enabling financial institutions to capitalize on opportunities afforded by the changes in the financial system, ensuring that consumer confidence and trust is maintained and honoured in the institutions that comprise that system, and centralizing regulatory and policy-making functions as a means of being able to continually review all government initiatives in this critical sector and to encourage intergovernmental consultations.

A general categorization of the initiatives taken by the Ministry and its predecessor bodies to ensure that financial institutions remain competitive and viable would include, under

general categories, refinement of procedures and policies such as those included in the Loan and Trust Corporations Bill, about which I will have more to say later; amendments to the Insurance Act to introduce a compensation plan for general insurers--that is also before the House in the form of Bill 108; and the release just recently, in late August, of a discussion paper on credit unions and Caisses Populaires entitled *A Program for Change--Building on the Strength of Ontario's Credit Unions and Caisses Populaires*, which outlines the direction the Ministry plans to take in addressing the deficit issue that currently confronts Ontario's credit union movement.

The second category of activities is the creation of independent committees to review and make recommendations to the government on all or on specific aspects of financial institutions. The most recent examples of these activities are the Dupré Report, which was issued in December of last year, and the Ontario Task Force on Insurance, known as the Slater Report, which was released in May.

Thirdly, the Ministry is active in close monitoring of financial institutions and the ever-changing marketplace by the different organizations that come under the Ministry's organizational structure. And the two superintendents in particular have critical roles to play in that regard.

Finally, the Ministry is involved in extensive consultation with federal and other provincial governments. An agreement was recently reached among ministers in Canada responsible for financial institutions to have regular federal-provincial meetings to facilitate consultations and the development of co-ordinated policy responses to the industry; to enhance information-sharing among jurisdictions and the deposit insurers; to work towards creating a database on all financial institutions, and a directory of ownership; and finally, to ensure consultation when the interests of more than one jurisdiction are involved in the liquidation of a particular financial institution.

I should note that plans right now are for a federal-provincial meeting of ministers responsible for financial institutions in the latter portion of October of this year. This would be one of their ongoing sets of meetings that I referred to a moment ago.

Turning to the organizational structure of the new Ministry of Financial Institutions, the organizational structure is designed to enhance, support and encourage the objectives of competitiveness in the financial services sector and consumer protection. At the back of this presentation there is a small organization chart that gives you that layout.

The Financial Institutions Division consists of two main areas of responsibility: insurance and deposit institutions. Each of these areas is headed by a superintendent. The office of the Superintendent of Insurance--that is Mr. Weir--supervises and

regulates the business of insurance and pre-paid medical plans. The office of the Superintendent of Deposit Institutions, Mr. Wilbee, supervises and regulates the loan and trust companies and the credit unions, the Caisses Populaires system.

The mandate of both offices is to ensure access by the public to a sound, ethical and competitive marketplace; to develop and maintain policy, laws and regulations for financial stability and sound business practices; and to protect the financial commitment by these institutions to the public; and to ensure uniform application of laws and policies.

The Ministry is also associated with two commissions. First is the Ontario Securities Commission. The Ministry works closely with that Commission, which is charged with promoting investor confidence in capital markets and with encouraging the formation of capital. I understand from looking at your agenda that Stanley Beck, the Chairman of that Commission, is due to appear before the Committee later this week. And also, the Pension Commission of Ontario, which we work closely with. That unit is charged with administering the Pension Benefits Act. This entails the registration and regulation of all private-sector pension plans covering employees in Ontario. I hasten to add that it covers public-sector pension plans as well.

The Commission provides advice to pension plan administrators, the pension industry and the general public regarding legislative requirements for pension plans.

Having outlined briefly how the Ministry is structured to carry out its mandate, I would now like to look more specifically at the issue of ownership. I will start with some general observations on the motivations underlying increased concentration, and then review more particularly the recommendations of various government committees and task forces on how to deal with this matter.

The economic consequences of increases in corporate concentration have been debated for many years in Canada, and in fact--and I am sure that I need not remind this Committee of this--there is a Federal Royal Commission on Corporate Concentration, the Bryce Commission, whose conclusions were tabled in March of 1978.

My concern here today is not with the issue of market concentration and its implications for market efficiency, but rather with ownership concentration in the financial sector and the associated potential for conflicts of interest. In the most general terms, the arguments for and against restrictions on ownership concentration in the financial sector may be summarized as follows: first, turning to the arguments in favour of having ownership restrictions, the position has been taken that broadly-held corporations with diversified ownership are less likely to engage in high-risk activities than companies dominated by a single shareholder.

It has also been maintained that broadly-held corporations reduce the opportunity for abuses associated with related-party transactions, or self-dealing. Broadly-based ownership, it has been argued by some, contributes to strong, stable and solvent financial institutions. Closely-held institutions are viewed as more vulnerable. If the owner of a closely-held financial institution runs into financial difficulties, there is the possibility that depositors will make a run on the institution, causing it to fail or merge with another institution.

Another argument in favour of ownership controls is that lower levels of ownership by a particular group create a sensitive and responsible board of directors. Their composition is more likely to be from different sectors of the economy, hence providing the institution with a window on those sectors.

Turning to the arguments made against the concept of ownership restrictions, I would cite as the first one: those opposing ownership restrictions maintain that potential for abuse associated with related-party transactions is not demonstrably greater in companies dominated by a single shareholder than it is where management becomes entrenched and acts effectively as if they were the owners.

Restricted ownership of financial institutions, it has been argued, tends to reduce the capital available within the financial system. Those opposed to controls also state that ownership limitations could weaken the ability of financial institutions to compete in the marketplace. This would be of great consequence, given the trend towards global competition and the need for world-class competitors.

A fourth argument put forward against controls is that conglomerate ownership implies the availability of funds in other parts of the conglomerate organization to assist the financial institution component in times of difficulty.

These are just a few of the more prominent arguments that have been raised on the topic, and indeed, many other pros and cons could be enumerated as well. Out of the lengthy debate that has taken place on this issue, no compelling conclusion emerges on one side or the other, I would suggest. This lack of consensus is also characteristic of the conclusions of the various government committees and task forces. I would like to take a moment to highlight some of those results of those task forces.

This issue of ownership has been examined in numerous reports discussing various proposals for the regulation of financial institutions. Two major concerns that these reports have attempted to address have been self-dealing and the development of conglomerates, both financial and those involving a mix of the financial and non-financial sectors.

I will commence with a review of the November, 1983 White

Paper proposals for revision of the loan and trust corporations legislation in this province, and conclude with the May, 1986 report of the Senate Standing Committee on Banking, Trade and Commerce.

It should be noted that some of these papers deal with only one of the four pillars in the financial industry, while others cover all the pillars to some degree.

Turning first to the Ontario White Paper, it dealt exclusively with loan and trust corporations, though the principles it put forward could apply to other financial institutions as well. The paper concludes that there is no convincing evidence that there is undue financial dominance of loan and trust corporations to the public disadvantage in Ontario.

As conflict of interest can exist between management of a trust company and the clients of the corporation as well as with the shareholders, for an absolute limitation on ownership to be justified it must be based on the conviction that there is no other effective way to avoid or minimize conflicts of interest.

The paper rejected limitations on absolute ownership, preferring the alternative course of requiring approval for significant share transfers and placing a ban on self-dealing. These proposals form the basis of Bill 116 that is before the legislature and which I will be discussing at some length in a few moments.

The White Paper was referred to a Standing Committee, in this case the Standing Committee on the Administration of Justice, and that Committee accepted the White Paper proposals related to ownership and share transfers.

A dissenting opinion report was filed by two members of the Committee, though, expressing the concern that the extent and degree of concentration of financial power throughout the financial institutions in Ontario and Canada had not been fully addressed. The dissenting members stated that this issue was dismissed by both the White Paper and the Committee, and despite this they believed the government should explore a variety of ways to break up excessive concentration of financial power in the trust industry and prevent its abuse.

An alternative suggested in their report to control this concentration would be to apply arbitrary limits on single shareholdings.

Turning to the Dupré Report, its final report was issued on December, 1985, and while not proposing legislated limitation on absolute ownership, it did recommend that a principle of public policy should be to encourage the development of widely-held financial institutions. It also supported a ban on self-dealing and urged priority be given to putting regulatory provisions against self-dealing in place for all financial institutions.

The report expressed a concern over corporate concentration and the control of financial institutions by those involved in non-financial sectors of the economy.

I will now turn to several federal studies, the first being the so-called Green Paper.

In April, 1985, the federal government issued a discussion paper, *The Regulation of Canadian Financial Institutions*. It was followed by a technical supplement in June of that year.

The Green Paper rejected absolute ownership limitations and followed the lead of the Ontario proposal of regulatory approval of share transfers and mergers. The federal government introduced Bill C-103 to amend their Loan and Trust Acts, Bank Acts and the Quebec Savings Bank Act to reflect this general approach of regulatory approval.

The paper proposed a ban on self-dealing and would regulate the activities of conglomerates by requiring the establishment of a federally-regulated holding company where any group held 10 per cent or more of more than one financial institution.

The House of Commons Standing Committee on Financial, Trade and Economic Affairs reviewed this Green Paper, its technical supplement and also the Wyman Report on Canada Deposit Insurance, and issued its report known by its Chairman's name as the Blenkarn Report, in November, 1985. The Blenkarn Committee also issued a supplementary report in June of this year.

That report considered corporate concentration a problem and recommended a limit on ownership of a financial institution by non-financial organizations of 30 per cent, as well as giving the Minister of Finance the power to prohibit a merger. Its concern with concentration was also reflected in its proposal of graduated limits on absolute ownership for financial institutions. The report suggested that domestic ownership limits for all Canadian incorporated financial institutions and holding companies controlling affiliated financial institutions be established on the basis of domestic asset size. And under this sort of sliding formula, it would allow single ownership or 100 per cent ownership for organizations with under \$10 billion in domestic assets, but sliding down to a maximum 10 per cent ownership for such organizations with over \$40 billion in domestic assets.

Reporting on the same discussion papers as the Blenkarn Report, the Senate Standing Committee on Banking, Trade and Commerce, or the Lowell Murray Report as it is sometimes called, rejected the application of the so-called 10 per cent bank rule to other financial institutions, but proposed instead that 35 per cent of an institution's shares or shares of its holding company be publicly traded.

The Senate Committee has indicated that it intends to

examine the issue of corporate concentration and co-mingling of financial and non-financial activities as a separate activity.

It should be clear from the foregoing that there is no scarcity of studies, reviews of studies or recommendations on the topic of financial institution ownership. What is not so readily available is a consensus on the regulatory initiatives to be taken. There are many differing views on how government should handle the matter of domestic and foreign ownership of financial institutions.

With this background of general concerns and recommendations of various committees already addressed, I would like to narrow the focus of my presentation to those aspects of the current piece of legislation being put forward by the Ministry, that is the Loan and Trust Corporations Act, Bill 116, which relate to the concerns that are often cited in the discussion of concentrated ownership.

Following the White Paper to which I referred earlier and the related report of the Standing Committee, and the Dupré Task Force report, Bill 87 was introduced in December of last year. It was subsequently withdrawn to permit some minor revisions and was reintroduced as Bill 116 in July of this year. This bill reflects the comments of the White Paper, the consultation draft and the Dupré Report.

The bill is very broad in its scope, incorporating sections that deal with many areas of trust and loan company operations. In my comments today, I want to concentrate just on those aspects of the legislation that deal with issues of consumer protection and ownership. I will do so by focusing on four important issues, indicating the manner in which the bill deals with them.

The first is the maintenance of public confidence in the industry. The proposed legislation works on the assumption that when there is a choice to be made between maintenance of public confidence in the industry and some other worthy goal, such as greater competitive capacity in registered corporations or, say, deregulation, the conflict must be resolved in favour of the maintenance of the overall integrity of the system.

Although depositors do receive a level of protection under the Canadian Deposit Insurance Corporations Act, the system itself cannot afford too many failures. It is common knowledge, and reported in the media frequently, that the financial and fiduciary business is based on public confidence in the system itself, and one failure can trigger many more problems than just those associated with the one specific incident.

The second principle in the bill is extending the same rules to all companies. The present Loan and Trust Corporations Act does not provide a method of regulating non-Ontario companies that are subject to different rules in their home jurisdictions.

In order to ensure equal protection for all depositors and a relatively equal competitive marketplace for corporations in this industry, all corporations operating in Ontario will be required to adhere to essentially the same rules, therefore the so-called "equals approach."

Without this "equals approach," it would be impossible to adequately protect Ontario depositors, in our view. It is worth noting that the Standing Committee on the Administration of Justice supported the stance of regulating all companies doing business in Ontario.

A third element of Bill 116 relating to the matter at hand is the matters of corporate governance, particularly the responsibilities of boards of directors.

In hearings before the Standing Committee, to which I referred earlier, it was emphasized frequently that management must be responsible for the corporation under its control and that civil servants should not regulate in a manner that would tend to replace or erode the board of directors' functions and responsibilities. The Act focuses on the board of directors as the centre of this corporate responsibility.

This responsibility is intended to stress that corporations themselves need to provide protection for the public--that is, corporate governance--and that protection of the public is not just a responsibility of the regulators and of government. Again, the emphasis on managerial responsibility for loan and trust companies leads to a focus on the board in order to make them an effective balance against possible inappropriate action by the corporations.

There is a requirement in the legislation that outside directors be introduced and that a new standard and duty of care be adopted. Directors must exercise "the care, diligence and skill of a reasonably prudent director or officer under comparable circumstances." Also, when considering the advisability of a particular course of action in regard to the best interests of the corporation, "...a director or officer shall have due regard to the interests of depositors as well as the shareholders of the corporation."

This duty of care is new in Canadian law, although it is based on provisions in the United Kingdom Companies Act. The outside director rule introduced in the loan and trust legislation is similar to the rule in the Ontario Business Corporations Act.

The definition of an outside director has been narrowed in the proposed legislation. For example, it excludes past officers or employees--that is, employees that have been employed within the past two years. It also places limits on cross-directorships, restricting an individual to the directorship of only one registered corporation--that is, other than an affiliated corporation. This provision is similar to the rules in the Federal Bank Act.

The new legislation calls for one-third of the directors to be outside directors and also for independent and separate audit and investment committees.

Fourthly, the legislation includes strong conflict-of-interest rules and controls over self-dealing. The events surrounding the Greymac, Seaway and Crown Trust matters of 1982 and 1983 highlight the dangers that can arise from self-dealing. As I indicated earlier, this issue was subsequently examined thoroughly by various committees and task forces.

One measure that has been proposed by various spokesmen to eliminate self-dealing and to obviate temptation in conflict-of-interest situations is the so-called 10 per cent bank rule, which limits the ownership of Schedule A banks to less than 10 per cent by any one party. It is interesting to note that the bank rule itself was introduced not specifically to deal with conflict of interest as such, but rather because of concerns over the concentration of economic power and foreign ownership of Canadian banks.

This option, the idea of the 10 per cent bank rule, was given explicit consideration in the White Paper, but it was concluded that it would not have precluded the need for strong measures to deal with self-dealing and conflicts of interest. This is the conclusion reached by the Standing Committee on the Administration of Justice in its 1984 report as well.

The reality is that some group controls a corporation, whatever its ownership level, so that conflict-of-interest regulation is necessary in any case. Moreover, ownership limitations involve questions of practicability, given the current size and ownership of the trust and loan industry. It could also act as a serious impediment to growth for smaller companies which do not have access to a broad capital base.

As I mentioned, it was decided to adopt strict conflict-of-interest and self-dealing rules and emphasize further the responsibility of boards of directors and the public disclosure of information.

There is a strict prohibition in the proposed legislation on transactions between those persons who may have the ability to direct the corporation towards actions of benefit to themselves and the loan and trust corporation. This will be particularly in force in real estate, an area identified as a major concern.

Control over conflict of interest will also be maintained by having restrictions on cross-directorships, segregation of the sensitive commercial lending area from other activities, restrictions on investments in any one company or groups of companies, and the extension of special rules to the voting of corporation or affiliated shares held in estates, trust or agency accounts.

The proposed legislation recognizes the need to provide for a transition period for some of these provisions and, in some limited cases, to provide for permanent exemptions or grandfathering.

This legislation is much needed and will answer the need for a stronger regulatory force in order to protect the public, while at the same time enhancing competition, upon which our economy is built.

Mr. Chairman, I have attempted to provide the Committee with a general overview of the issue of ownership of financial institutions. I have also outlined in greater detail how this Ministry has addressed this issue, given our mandate. I shall be pleased, and my colleagues as well, to the extent of our ability, would be pleased to respond to questions the Committee members may have.

MR. CHAIRMAN: Thank you very much. That is an excellent overview of the Ministry and the bill and a lot of problems, and I am sure there are a lot of questions.

Mr. Ashe has a question.

MR. ASHE: Thank you, Mr. Chairman.

Really, just two lines of questions. One you may not think is relevant, but I do, and the second obviously is relevant. One, Mr. Davies--and one may run into the other, so I will put them both out at once, if you will, and you can answer them yourself or pass on any part that you wish.

Two things came to mind when you were going through your presentation, and I guess the first one is maybe obvious to everyone: that this Committee is trying to reinvent the wheel. I mean, you know, there have been so many commissions, inquiries, task forces, et cetera, which you identified and touched upon, that--are we just trying to recreate the wheel?

Secondly, a follow-up of that, of course, is where, in your view, in your Ministry's view, do you see this Committee possibly being helpful? Can you give us any direction that we do not already have indicated in our agenda to date, let us say? I think if we are going to reinvent the wheel, let us try to make it even a little better wheel.

And I suppose the other thing I would like you to comment on: can you tell me--and I appreciate this is difficult--can you tell me what you feel that the new Ministry of Financial Institutions has done, will do or can do that makes it any different than previously tied in with the Ministry of Consumer and Commercial Relations, other than creating a new opportunity for an excellent Deputy Minister?

MR. DAVIES: Perhaps, Mr. Ashe, I will address your latter point first; not your ultimate point, but your penultimate point.

Part of the rationale for creating a separate Ministry of Financial Institutions was to provide a more consolidated focus on what is a very important segment of the economy of the province. The Ministry of Consumer and Commercial Relations, under which many of the financial institutions' activities used to occur, has an extremely broad mandate, as I am sure, as a member of this legislature for quite a few years, you would be aware. And quite frankly, I think it is fair to say that the attention and focus that could be provided within such a broad ministry to this critical sphere of financial institutions is probably limited.

The importance of financial institutions' activities is important at two levels: first of all, in its own right, a very significant generator of employment and economic activity, particularly in this city; but secondly, the efficiency of the capital markets and of financial institutions is critical to the health of the overall economy, and it is for that reason that the government decided to give it more prominent focus and attention.

In terms of what it means in terms of more effective operation--I mean, one could argue, I suppose, that that could be done under the rubric of its existing structure, but in addition to the point that I made regarding the span of control that was lodged in the one Ministry before and the difficulty of focusing, there is also a lack of a structure that attempted to integrate more fully the activities of the two commissions that are associated with this Ministry: namely, the Pension Commission of Ontario and the Ontario Securities Commission; and also to provide a focal point to liaise with other jurisdictions, federal level, which have all moved towards having separate focused financial institutions units.

I made reference earlier in my presentation to the fact that there is another upcoming ministers-of-financial-institutions meeting. In many cases now across this country, there is a separate dedicated minister and ministry or department focusing on financial institutions. We did not have such a unit.

The arguments . . .

MR. ASHE: Do we have the numbers for that in terms of the jurisdictions across Canada? The number that have a separate ministry and a separate minister?

MR. DAVIES: I could undertake to get that information for you. I do not have that at the ready.

The rationale for a separate focal point was elaborated on in Chapter 3 of the Dupré Report as well, where the Dupré Committee argued for some consolidation and centralization of these activities.

I do not know if I fully addressed your query, and I will undertake to get you that information on the structures in other jurisdictions.

In terms of your first observation as to whether or not this Committee is entering into well-trodden territory, the only observation that I would be so presumptuous as to make is that the reference, as I understand it, to the Committee is on corporate concentration in general, not restricted strictly to financial institutions, and that, I would suggest, is a very large sphere and scope. And I should imagine that there are areas of endeavour and activity that have not been fully researched in that broad area.

MR. ASHE: Are you in a position to give us any guidance in that field? Because it was the Committee that chose, for the exact reason you have identified--that it is such a broad sector, a broad field--that we should narrow it down and look at a particular sector, which we chose as the financial community, if you will. And that is why we are where we are now. But can you give us any advice or direction or suggestions as to how we can make this opportunity, then, possibly helpful?

MR. DAVIES: Well, I guess I--looking at from the perspective of the Deputy Minister of Financial Institutions, it is sort of difficult for me to cast myself in that role. I would presume that your staff of your Committee has given guidance on this as well. I really find it difficult to propose a scope or range of your activity, Mr. Ashe.

MR. ASHE: Well, let me leave it open then, Mr. Chairman. Do we agree that we will leave it with the Ministry, and obviously the Deputy Minister, that if, during our deliberations, there is any area that--or suggestion that the Ministry feels would be helpful to this Committee and ultimately the Legislature, and obviously the Ministry, that they feel free to come forth and make those suggestions to us, that they do not have to confine their remarks to today's opening morning?

MR. CHAIRMAN: I think that is fair, Mr. Ashe. Your question really begged we, as legislators, asking where we should be led. But I think it is certainly fair that if they have any interests or concerns or suggestions that they want to give us in the course of our deliberations, Mr. Davies, please feel free to let us know.

Do you have any other supplementary questions?

MR. ASHE: No. I will pass for now, Mr. Chairman.

MR. CHAIRMAN: Okay. Mr. Foulds, Mr. Ferraro and then Mr. McFadden.

MR. FOULDS: Just a couple of quick questions, and please forgive me because I am a novice in this area. What is your authority? That is, how are you established other than the statement of the Premier? Do you have--you do not have legislation. . .

MR. DAVIES: As a ministry?

MR. FOULDS: Yes.

MR. DAVIES: I should seek the guidance of someone learned in the law on this. We do not have a separate ministry statute at the present time.

MR. FOULDS: Right.

MS PARRISH: We are established under Order-in-Council.

MR. FOULDS: Could we have that Order-in-Council provided for us?

MR. DAVIES: Certainly.

MR. FOULDS: And are you planning to bring forward legislation establishing yourself?

MR. DAVIES: That is a matter that is under discussion with the Minister. I suspect that it would be appropriate and desirable to have statutory authority.

MR. FOULDS: Basically, as you are presently operating--and as I understand it, you were in fact a branch of the former. . .

MR. DAVIES: A division, they are called.

MR. FOULDS: A division of the former ministry. And you have just consolidated those functions into a separate ministry to give it the focus that you talked about this morning.

MR. DAVIES: That is correct, with some minor adjustments, that there were activities in some of the other divisions of--well, a good example would be mortgage brokers were not in the old financial institutions division, but are in the process of being moved to the Ministry of Financial Institutions.

MR. FOULDS: Right. Okay.

Could you elaborate a bit--because you mentioned in your presentation this morning that there is overlapping jurisdiction between, obviously, Ontario's jurisdiction in this area and the federal jurisdiction. Could you give us a brief primer on what the key points of either conflict or conciliation have to be?

MR. DAVIES: Perhaps I could address the question of conflict and conciliation while one of my colleagues pulls out a copy of the presentation that I made to this Committee a number of months ago now, which outlined, at the request of the Committee, the relevant jurisdictional responsibilities. I do not know how many extra copies we have got with us right now, but I will leave them with the clerk.

In terms of conflicts or problems, one of the things that the two superintendents in particular are charged with is working with their colleagues in other jurisdictions to look towards complementarity in our activities. I would let them speak to any particular issues, but I would suggest to you, Mr. Foulds, that the working relationships have been reasonably positive over the years and there has been a great effort in the last several years, and certainly in my short time in the Ministry I know I have been spending an awful lot of time on this, to look for ways of making sure that where there are areas of overlapping jurisdiction we are not, quite frankly, tripping over one another and working at cross-purposes. I do not know if either of my colleagues, the superintendents, wish to elaborate on that.

MR. WILBEE: Well, I could perhaps--not add to that, because what you have said is what I would say. There is an awful lot of consultation, and I am speaking primarily of the insurance side.

Inasmuch as all deposit-taking institutions in Ontario other than banks are either registered or directly regulated by Ontario--and a number of them, in addition to being registered by Ontario, are regulated primarily by the federal government or in some cases by other provincial governments--there is quite a bit of overlap. However, that does not translate into tripping over each other because, essentially, Ontario only has an active regulatory examination role for Ontario-incorporated companies, and relies on reports of other regulators to ensure that the companies are relatively safe for their depositors to deal with.

MR. FOULDS: How many are there, Ontario-regulated companies who are incorporated?

MR. WILBEE: I believe the number is 27 for Ontario, and there are roughly 100 in total, loan and trust companies operating in Ontario.

MR. FOULDS: Okay.

I wonder if I could ask one more question then, Mr. Chairman, and that is . . .

MR. CHAIRMAN: A supplementary, yes. What was that figure, 27? Twenty-seven deposit institutions?

MR. WILBEE: Twenty-seven loan and trust companies under Ontario incorporation and directly regulated by my office.

MR. CHAIRMAN: Thank you.

Mr. Foulds.

MR. STEPHENSON: And one hundred Canadian--or international. . .

MR. DAVIES: That includes the 27.

MR. STEPHENSON: . . . including the 27.

MR. FOULDS: One hundred operating in the province?

MR. WILBEE: That is correct.

MR. FOULDS: The other is on the question of ownership. You went through a fair briefing in terms of arguments for restriction, arguments against restriction. Bill 116 comes down on a regulatory side as opposed to a limitation side?

MR. WILBEE: That is correct.

MR. FOULDS: Okay, that is all for now.

MR. CHAIRMAN: Mr. Ferraro, Mr. McFadden and Mr. Barlow.

MR. FERRARO: Thank you, Mr. Chairman.

I want to go back to that I27 designation for a minute. I am not quite clear yet. If you are federally chartered as a deposit-taking institution, does that preclude you up to this point from having to be chartered in Ontario?

MR. WILBEE: I guess I have not been totally clear in my earlier remarks. What I--I said there are approximately 100 loan and trust companies doing business in Ontario. All of them are registered with my office, have to be, in order to do business in Ontario. Of that number, 27 are incorporated under Ontario law, and therefore directly examined by people on my staff on an annual basis.

The remaining approximately 75 are companies that are incorporated under federal jurisdiction for the most part, but there is a small number of companies that are incorporated under the laws of other provinces, for example Quebec, British Columbia, and they in turn are regulated by regulators in those provinces. But all of them are registered to do business in Ontario.

There are indeed more loan and trust companies in Canada than 100 operating in other provinces, totally not operating in Ontario, and I am not referring to them. I am only referring to those that are authorized to do business in Ontario.

MR. FERRARO: Well, let me ask, then, the distinction between registered in Ontario and being chartered in Ontario. What does that mean to the financial institution?

MR. WILBEE: They are all registered in Ontario . . .

MR. FERRARO: What does that mean?

MR. WILBEE: It means that they appear on our registry and they are authorized to do business in Ontario, which is a privilege which can be removed, for reason. The ones that are incorporated in Ontario are subject to our regulatory regime of examinations, annual examination by a professional staff under my direction.

MR. FERRARO: It begs a question, Mr. Wilbee, though. Why would you--I am sensing that in order to be chartered in Ontario, you have to go through the hoops that we have established, essentially, which are quite extensive. I know, for example, trying to set up a trust company is not as easy any more, and that it is very easy if you are from Alberta or B.C. or have a federal charter--although it is not necessarily that easy to get a federal charter--to come in and essentially do the same thing that somebody who was chartered in Ontario had to sweat blood over.

MR. WILBEE: Well, you are touching on a very key issue of the Bill 116, the Loan and Trust Act, which introduces what we refer to as the "equals approach," which essentially requires any trust company registered or loan company registered in Ontario to be almost totally in compliance with the Ontario regulations. In other words, if their own province has a more lax or easier regime, they will still have to comply with our legislation here.

MR. FERRARO: I was leading up to that question exactly, on the equals approach, where I noticed you qualified it by saying "essentially the same rules." What is the difference?

MR. WILBEE: Well, one rule that we would waive is that they would not have to be incorporated in Ontario. It sounds obvious, but I qualified it because there are a few corporate structure rules that are unique to Ontario or at least are favoured by Ontario, but they are not essential to . . .

MR. FERRARO: Why would you not make them become incorporated in Ontario? I mean, what the hell, if the 27 institutions paying taxes here and employing people have to play by those rules, why would not the others?

MR. WILBEE: I guess the bureaucrat's answer to that is, because it is not required by government policy. And I guess the broader answer would be that it would be a matter of what reciprocity Ontario would want to have with other jurisdictions.

If Ontario did not wish anybody but Ontario-incorporated companies to do business here, presumably other provinces would have similar restrictions against Ontario companies. And I suppose that is why Ontario has not gone that route.

MR. FERRARO: The 27 companies that are chartered in Ontario, do they not show any consternation at being treated differently?

MR. WILBEE: No, I do not believe they do. I am not aware

of it, in any event.

MR. FERRARO: Okay.

Mr. Wilbee or Mr. Davies, essentially what Bill 116 is doing is taking a different approach than suggesting, for example, that 10 per cent ownership of trust companies be the law.

Justify it for me, if you can. When you look at the concentration--and I am not taking the position either way of playing devil's advocate at this junction--when you look at the size of some of the trust companies, and it is a known fact that Canada Trust now is the third- or fourth-largest financial institution in the country asset-wise, larger than some of our chartered banks, it brings back the same argument: why the hell do we have this stipulation for banks, and you have a trust company that is larger than some banks and yet there is no . . .

MR. DAVIES: Well, perhaps I can address that in terms of--the jurisdiction of the province obviously is over trust company matters, not over bank matters. The approach taken in Bill 116 and the focal point and the focus of Bill 116 is to ensure the solvency and the soundness and depositor protection of people doing business with trust companies. It is our view that we are achieving that critical objective by the controls on self-dealing and conflicts of interest that are built in, and that there is not a need or it is not appropriate to tackle that by way of ownership, nor is there a need to supplement by way of ownership restrictions.

MR. FERRARO: Just as an aside, does any other province have that 10 per cent restriction on trust companies? I am assuming they have regulations . . .

MR. DAVIES: Not to my knowledge, but I will defer to . . .

MR. FERRARO: Okay. On that, responsibilities of board of directors, corporate governance is a thrust of Bill 116, and I really get a chuckle out of some of the motherhood statements in there about how a director should operate. And essentially, it is motherhood. But one particular point that I want to discuss is on page 19.

MS STEPHENSON: If you want to call it parenthood, call it parenthood.

MR. FERRARO: Parenthood, yes, very good.

MR. FOULDS: In this day and age you might call it ice cream and apple pie.

MR. FERRARO: Oh, all right, whatever. They're all the same.

Having said all of that, one of the restrictions is that a

director can only be a director, essentially, of a financial institution in one registered corporation. Is that one of the suggestions--other than an affiliated corporation? Is that . . .

MR. WILBEE: Well, Colleen, can you answer that?

MS PARRISH: Well, what the rule would say is that you can only be a director of one loan and trust corporation. However, there is an exemption because many trust companies own mortgage corporations and many mortgage corporations own trust companies . . .

MR. FERRARO: Yes, yes.

MS PARRISH: . . . so in that case we are saying you could be a director of both; otherwise you can only be a director of one.

MR. FERRARO: Okay, can you be--it's not referring in essence to a large--let us use Trilon Investments. It does not precluded one individual from being on the board of directors, for example, of Royal Trust and being on the board of directors of London Life Insurance?

MS PARRISH: They could be a director on both institutions, but they could not be an outside director; they would have to be an inside director.

MR. FERRARO: Okay, and the difference is what?

MS PARRISH: Well, you have to have one-third outside directors, so you only have so many inside director positions. So it is really just a question of the size of the board and . . .

MR. FERRARO: The question is where you fit this person in.

MS PARRISH: . . . and the number of inside or outside positions you are and the number of persons you wish to have as inside directors.

MR. CHAIRMAN: I am just wondering--I do not want to interfere, Mr. Ferraro, but could you explain the difference between an inside and an outside director? We heard some of it in the opening statement, but it's still not clear.

Page 19, all right, the definition of an outside director.

MS PARRISH: The actual definition of being an outside director is sort of a negative definition; it is found in section 89, sub iii, of the Loan and Trust Corporations Act. And in essence it says that you are not eligible to be an outside director--one-third of directors have to be outsiders. You cannot be an outsider if you own more than 10 per cent of the voting shares of the corporation or any of its affiliates. And when I use the word "corporation," I mean the loan or the trust corporation.

You cannot be an outside director if you are an officer or an employee of the corporation or any of its affiliates, or if you have been an officer or an employee of the corporation or any of its affiliates within two years of the date that you wish to be a director.

You cannot be an outside director if you are a spouse or a child of any of the individuals we have just described, i.e., the 10 per cent shareholders, the officers, the employers, the employees of the affiliates or the corporation.

And you cannot be an outside director if you are a relative of any of those other individuals or a relative of the spouse of any of those individuals, but only if the relative lives in the same house as you or your spouse. This is a situation where if your mother-in-law lives with you, she cannot be an outside director on your loan or trust corporations.

So that is the technical definition of when you are an outside and when you are not an outside director.

MR. FERRARO: Since you are talking numbers, is there a regulation as to how big the board of directors can be?

MS PARRISH: They must be at least five and they must be at least one-third outside directors.

MR. FERRARO: With a maximum?

MS PARRISH: There is no maximum size to the board.

MR. FERRARO: So the one-third really is a nebulous thing, from the standpoint if you wanted somebody on, you could just increase the size of your board of directors.

MS PARRISH: If you were prepared to--if you wanted to have a large number of insiders, you could increase your board if you were prepared to carry the expense and other problems associated with that.

MR. FERRARO: Okay. One final question and then I will be quiet.

The protection that depositors, consumers, have now has recently been increased as a result of events to \$60,000, essentially, and that applies both for a mortgage corporation investment and a loan and trust company investment. Is that right?

In other words, if I go to a trust company and put \$60,000 in a mortgage corporation and \$60,000 in GICs, I have got \$120,000. Is that correct?

MR. WILBEE: If you--each institution has a separate limit. In other words, one individual can have a \$60,000 insured deposit in any number of institutions, but if it is within one institution and it is

over \$60,000, that portion over \$60,000 would not be covered.

MR. FERRARO: Even if it is a mortgage corporation note as opposed to a trust company note?

MR. WILBEE: When you say "mortgage corporation," I am not quite sure what you are referring to.

MR. FERRARO: Well, let me refer to my old Alma Mater, Royal Trust, as indicated by legal counsel. If you had a mortgage corporation and you had a trust . . .

MR. WILBEE: Where the mortgage corporation is a loan corporation, under our Act. . .

MS PARRISH: They are separate companies.

MR. FERRARO: So if I had \$120,000 . . .

MR. WILBEE: They are separate corporations.

MS PARRISH: Separate companies.

MR. FERRARO: Okay. A very general question. How much of a disaster can the consumers of Ontario under today's legislation, as it exists, suffer? Could we afford it if a large trust company had a run on it, without government intervention?

MR. DAVIES: I make two observations on that, is that the insuring body for all of these companies is the Canadian Deposit Insurance Corporation, which is a federal entity. I would suggest to you that the answer to your question is that no, we certainly could not afford it, because as I made reference in my opening comments, the issue, I would suggest, is not strictly the initial impact on that one particular entity. You know, the Canadian Deposit Insurance Corporation might have enough money in the kitty to pay off that.

MR. FERRARO: How much do they have . . .

MR. DAVIES: They are in deficit right now, to my understanding.

MR. FERRARO: They are in deficit?

MR. DAVIES: Yes. But they have access . . .

MR. FERRARO: And nobody's got any faith in savings bonds under the present leadership, so. . .

MR. DAVIES: The larger concern--and this is something I suspect that Justice Estey's report, which is due out soon, will have some comments on--the larger concern, though, would be the impact on the confidence of the system as a whole.

MR. FERRARO: Thank you.

MR. WILBEE: I would just make a comment about CDIC, so that it does not--the deficit does not go completely the wrong way. The one asset CDIC has which is not on its balance sheet is, it has virtually unlimited claim on the Consolidated Revenue Fund of the Government of Canada to deal with any--the other side is, of course, the provision is that CDIC then collects from its member institutions to repay that money. So there is quite a bit of strength there to deal with that.

But obviously, if the disaster were large enough, as you are speculating, there may not be anyone left to pay those fees into CDIC and then there would be a real problem. But that is--the fact that it is in deficit should not be taken as a weakness. In fact, it was never intended to have an actuarial investment. It was never intended to. It is merely there to make a draw on the member institutions to pay losses that do develop.

MR. FERRARO: My wife has the same philosophy about deficits. It does not bother her.

MR. CHAIRMAN: Mr. McFadden.

MR. McFADDEN: Mr. Chairman, I note on the top of page 17 the observation that the legislation proposed, Bill 116 on Loan and Trust Corporations, will use as its main guiding principle the maintenance of public confidence in the integrity of the system. I cannot help but reflect that that has been, of course, the Canadian approach in general to financial institutions since Confederation.

Certainly, when you look at the banking system and opt toward security for the depositor, larger institutions, the maintenance of public confidence in the system, rather than getting a lot of competition going as the Americans have tended toward--and I know that over the years there has been a lot of criticism of the Canadian banking system, and to a lesser extent of trust companies, but certainly the banking system, because there has not been enough competition--I just found it interesting that we are maintaining that particular approach, which on balance is probably serving the country well since Confederation.

I note that the question of ownership has been addressed, and the stance taken by the Ministry in the preparation of the Act was to use regulation and directors' responsibilities as a way to regulate the system. And I note as well in your brief you mention the trauma which was created by Greymac, Seaway and the Crown Trust collapses. I can recall after those particular collapses that the banking industry shed many crocodile tears about the trust industry and what an awful thing this was and how they should not play by the same rules as the banks.

I noticed that the banks did not really pursue that much after CCB and the Northland Bank collapsed, with their 10 per cent rule requirements. In fact, it would appear that their self-dealing

and their standards were certainly . . .

MS STEPHENSON: Equally reprehensible.

MR. McFADDEN: . . . equally reprehensible, and would be an indication from that that in fact 10 per cent ownership rules . . .

MR. FOULDS: I am expecting the phrase "smash capitalism" to issue from your lips!

MR. McFADDEN: No, no, no. I cannot help but reflect on the fact that ownership per se is not the guiding light in terms of managing to iron out problems in the financial sector.

I take it that the business of ownership restrictions and this 10 per cent requirement is felt not to really resolve the kinds of problems we have had; that the integrity of the system can best be maintained by tightening up rules of self-dealing, by putting real responsibility on the directors, and that some kind of an ownership restriction does not really deal with the question of integrity of the system. Would that be your general overview?

MR. DAVIES: That is correct.

MR. McFADDEN: I have a question then about the directors. Under the proposed legislation, it is suggested that one-third of the directors be outside directors. I am curious as to why one-third has been chosen. Why not 50 per cent or 75 per cent or 25 per cent? Does the one-third have some magic, or was it just chosen to give a reasonable number of outside directors presence on the board?

MR. WILBEE: I know we deliberated when we were preparing our recommendations to the government and to the Minister on that point. I guess the one-third happens to fall nicely between 0 and 50 per cent, and it was felt that if an owner is going to have a controlling interest in the shares of a corporation, that owner is probably going to control the board. And there was just no way we were going to have a board that would not be somehow controlled by the owner. And the real issue is to bring in a counterbalance and bring in a segment of that board that would not totally have their futures and careers and prospects bound up in the personal ambitions of that owner, and that would have a legal responsibility, beyond what the owners might dictate, to look toward the good of the depositor.

In other words, where a situation may arise where an investment by that company of depositors' money may benefit the owner of the company but may jeopardize the security of the depositors, there would at least be a voice there that would be able to recognize that and protest.

It could have been, I suppose, 25 per cent, but if we have a minimum of five directors, 30 per cent ensures that two of the five would be outside. We thought one in five would be too few, three in five would not be tolerated or would probably be a sham, so that 30

per cent seemed to come out.

MR. McFADDEN: I have got to admit, on reflecting on the objectives that we are trying to achieve for the outside directors, that I would have had an inclination toward 50 per cent in the sense that the outside directors, anyway, would be appointed by the shareholder or shareholders, depending on who it happened to be, so they would not be completely people off the street. They would know who was around and what was happening in the company.

It just seemed to me that in terms of public confidence and the feeling that there is a major independent force working in the highest decision-making body in the company, at least from a legal point of view, that a 50 per cent participation by outside directors would seem to be advantageous.

I would expect that in reality, in most companies the outside directors are not in there to create a lot of trouble. What you are looking for is somebody of integrity who is going to go in there, ask penetrating questions, ensure that both the depositor and the shareholders' interests are being looked after.

My query would be whether that would not be better achieved if there was a balance between the inside and the outside, because the two-thirds/one-third situation really leaves the outside directors in very much of an advisory role. Obviously, they can raise questions, they can resign, they can go public, they can create an alarm in the financial industry, but in reality they do not really have a lot of authority within the company, and I would just raise a question about it. I am not suggesting we amend the Act right now, but I am just raising the question of whether 50 per cent would not more nearly achieve the objective that you stated in terms of the role of outside directors to protect the depositors and the shareholders.

MR. WILBEE: I could have mentioned, and probably should have, in my earlier remarks a couple of things that may address that point.

In the Act, for example, it requires there be an audit committee of directors to sit with the auditor and review all audit reports. That committee requires a majority of outside directors on it, which is a very strong countervailing thing to that.

Additionally, the appointment of all directors is subject to the approval of the superintendent, who is myself, which is more of a negative thing to try to keep people out who are notoriously not possessed of integrity, I guess would be a way to put it.

A SPEAKER: How do you determine that?

MR. WILBEE: It is very difficult--well, the notorious ones are not difficult to detect. But these are two things intended to strengthen that provision without insisting on a majority.

The resignations of directors also must be reported to my office so that we have an opportunity to contact those directors and find out why they resigned.

MR. McFADDEN: It is interesting. So when a company sends a list to you, X, Y and Z, they have to, as I understand it, include a brief résumé as to who these people are. Do you tend to basically only look at their financial integrity or their reputation, or are you also looking at their skills in the financial services area in some way, or their business background?

MR. WILBEE: We would not try to judge on their skill. Is this . . .

MS PARRISH: The actual sort of things that are judged are enumerated as being fit both as to character and as to competence to be a director of a corporation.

MR. McFADDEN: So character and competence. Competence would be pretty broad and obviously would fall within your jurisdiction and discretion. Do you often recommend that companies withdraw names? Is that a common occurrence with . . .

MR. WILBEE: We are talking about future legislation, so it is not in practice at this point.

MR. McFADDEN: And you are not involved in that in any way?

MR. WILBEE: Not at this time, no. It would be difficult to tell how much of that would take place.

MR. FERRARO: Can I ask a supplementary question?

MR. CHAIRMAN: Sure.

MR. FERRARO: Thank you.

A supplementary on that is that--you have not really had any jurisdiction in that area. If the legislation addresses an examination of the present composition of the board of directors, it begs the question--I mean, you can understand that some guy who just got out of 20 years for embezzlement, you do not want him necessarily on the board of directors. You could have somebody who has been on the board of directors for 10 years all of a sudden become somewhat of a liability too.

MR. WILBEE: Well, indirectly it does, because directors are elected annually, so that . . .

MR. FERRARO: You have to approve the whole board, then?

MR. WILBEE: Yes. In the first year, at some point the entire board of all the companies will have to come forward.

MR. FERRARO: Thank you.

MR. CHAIRMAN: Mr. Barlow.

MR. McFADDEN: I just had one final question.

MR. CHAIRMAN: Sorry.

MR. McFADDEN: With regard to legislation across Canada, it would seem to me that the effectiveness of what we are doing and the ability to enforce it--and also in order to ensure that Ontario is not disadvantaged--there is some real need to harmonize legislation across Canada, and certainly between the federal and provincial legislation at the very least, presumably to try to bring everybody in under more or less the same approach. How is that proceeding ahead? Is there good co-operation developing or do you feel it is going to be very difficult to develop a consensus nationwide on this kind of approach, if this becomes the type of harmonization the country thinks is advisable?

MR. DAVIES: In a general sense, as I mentioned earlier, I think the level of co-operation is high and therefore--I am inherently an optimist anyway, but I think there is good opportunities to ensure that legislation in the various jurisdictions is not counterproductive. As to whether or not they would all have exactly the same wording and the exact clauses, I would doubt that that would come to pass.

The superintendents of deposit institutions, I believe, Jim, do meet separately, and at the deputy and ministerial levels there are now put in place a series of ongoing meetings to achieve that very objective.

MR. McFADDEN: You are optimistic then that eventually we will have good harmonization across the country, then. Thank you.

MR. CHAIRMAN: Mr. Barlow, Mr. Callahan, Mr. McKenzie and Dr. Henderson.

Mr. Barlow.

MR. BARLOW: Just one brief question with regard to Bill 116, Mr. Davies. The bill has been introduced; it was introduced back in July, I believe. . .

MR. DAVIES: First reading, that is correct.

MR. BARLOW: For the first reading only. Where do you see the process happening? Do you think it will go out for public consultation again, or do you feel that input has already been there, has already been put into it?

MR. DAVIES: Well, I am sure its future will be at the pleasure of the House, but it has been--gone through an exposure draft

in substantially the same form as it is now. I would have presumed that it would go to second reading and probably be referred to a committee of the Legislature for clause-by-clause review.

MR. CHAIRMAN: You are not preparing another draft?

MR. DAVIES: We are not proposing to prepare another draft.

MR. CHAIRMAN: The rest of that question, we answer, I guess, Mr. Barlow.

MR. BARLOW: I realize that, but there has been input from the institutions themselves. They have been involved in many of these other studies and bills and so forth, and I just wondered whether you could foresee it as going to, you know, wide consultation again with the industry.

MR. DAVIES: My own perspective on that is that the industry has had quite a few opportunities to make their views known, and the continuing opportunities, I suspect, would arise with clause-by-clause . . .

MR. BARLOW: Right. Okay.

Has it been accepted fairly well by the industry?

MR. DAVIES: That is a difficult question for me to answer, it terms of the sort of feedback that I get. One hears more good news than bad news, or one chooses to hear good news rather than bad news.

MR. BARLOW: Okay. Thank you.

MR. CHAIRMAN: Mr. Callahan.

MR. CALLAHAN: I have two questions. The first one is, you were talking about the protection for the public in terms of the Canadian Deposit Insurance Company being limited to \$60,000 for any one institution. Is there presently anything in the trust company legislation, or is there something in Bill 116, which would require a trust company that amalgamates or merges or whatever with another trust company to notify the depositors, who perhaps have had their money--and I am thinking, to take an example, I guess, Victoria and Grey and National Trust. I had a little bit of money in there at one time and I suddenly discovered that almost overnight they were no longer Victoria and Grey; they were Victoria and Grey/National Trust.

Now, I am taking the example that if I were--to put it on its highest level, if I were a pensioner who had \$60,000 in there and \$60,000 in the other one to protect myself in the event there was a collapse, and they merged, or whatever they did, in fact without notification I have now got \$120,000 in a single institution and I am only protected for \$60,000. Is there any requirement under either the

previous act or will there be under Section 116 that the depositor would be made aware of that, specifically aware of that, that their exposure is limited to \$60,000 and if they want to get their money out, they had better get it out fast?

MR. DAVIES: We--just looking at the statute . . .

MR. WILBEE: There is not a specific reference, but there is a general provision enabling the superintendent--it would be myself in this case--to require a company to make any disclosure that my office would feel would be beneficial or necessary for public protection. And I guess I would certainly say that a situation such as that would come under that view, in my opinion.

But as to a specific requirement for that particular circumstance, no.

MR. CALLAHAN: Well, why is the onus not put on the financial institution? As I say, I got no notification at all until I went in to the trust company the next day and it had changed. I think that is a very real danger that--quite apart from--my colleague says I do not read the newspapers, but quite apart from that is the concern that I would have that a person who had perhaps organized their activities to protect themselves under the insurability that is provided could easily find themselves in a position, and granted, it is hypothetical, but if it did happen that suddenly they find that the trust company goes bust, they figure that they have got protection and they find that they have only got protection for \$60,000. I would think that there should be a requirement of the trust company to notify all depositors, if that is feasible, that in fact this is the situation.

MR. WILBEE: I would quite agree with that, that they should be required. I would point out that under the current Act that we are now operating, there is no requirement of that type and certainly there is no enabling provision to allow my office to make that kind of instruction. Of course, the merger you described took place under the old Act.

It would certainly be a standing policy in my shop that in an amalgamation situation that all depositors would be made aware of that and be made aware of the deposit insurance aspects of it. The reason, I guess, we have not dealt with that particular situation is that we anticipate there could be other factors in a merger that might also be of interest to the public or the depositors, and we would not want to restrict our ability to make those requirements to any one particular feature of the merger.

But I would certainly say it will be our policy to require that at any merger under the new bill, under the new Act once it is law.

MR. CALLAHAN: Yes, but if you put it as a matter of policy of your Ministry and for some reason it falls between the cracks, that

is not a very good answer to the person who has lost \$60,000, and it resounds back on you as the Ministry. If it is made a requirement of the Act, it then becomes part of the procedure for a merger or an amalgamation and puts the onus squarely where I think the onus should be, on the merging or amalgamating trust company.

MR. FERRARO: Could I have a supplementary? Because I think it is an excellent point.

Essentially two scenarios: one is if I have it in a bank account, it is liquid, in which case obviously you would have to give notification. But the other scenario is if I have \$60,000 in a five-year debenture with Canada Trust and \$60,000 in a five-year debenture with Canada Permanent Trust, and they are amalgamated, you are not telling me that I do not have \$120,000 insurance once they amalgamate.

MR. WILBEE: I think any--I would like to get back to confirm this, but my understanding is that any contract entered into before the merger would continue to have the deposit insurance.

MR. FERRARO: Otherwise, I should be able to get out of my debenture if I so wish.

MR. WILBEE: Exactly. And I think it would only--as you say, an ongoing savings account would be there. But any contracted term deposit of that nature . . .

MR. FERRARO: That has to be the case of . . .

MR. WILBEE: . . . the insurance would be in place from the day it was contracted. And it is only renewals that may come up where you may not be aware that the amalgamation had taken place, which is rather unlikely, but certainly it is likely enough that we would want to have it covered by an advisory to all depositors.

MR. FERRARO: Would you get back to us on that?

MR. WILBEE: Yes, I will.

MR. FERRARO: Thank you.

MR. CALLAHAN: I have a second question, which probably is outside of this somewhat. You have indicated at page 7 that you wish to ensure a competitive marketplace, and you go on to say that under the Ontario Securities Commission, the Ministry works closely with the Commission with a view to encouraging the formation of capital.

Now, one of the things that has always been a burr in my saddle is--and I thought it might have been addressed--and this is not a political statement, believe me--it would have been addressed by the large majority that the present federal government has, was to take banks out of the competition for equity capital. I mean,

Canadians traditionally are savers, and when you have got the banks and trust companies competing for the money at very high interest rates, you certainly do not encourage people or give them the impetus to put that money into equity capital.

So I gather that that would be a matter of policy. Obviously, there is nothing you could do through the Act in that respect. But has that ever been discussed in any of the federal papers on banking or even in papers that have been discussed through the province?

MR. DAVIES: If I am following your question correctly, if it is a matter of creating an environment to encourage equity participation on the part of citizens of this country, that has been a matter that has been quite at the centre of lots of discussions of taxation policy, through various studies and reports on tax policy. It is generally conceded that that is the instrument most effective in effecting biases for or against debt investment versus equity investment.

MR. CALLAHAN: Because it seems to me that perhaps the success the United States has had in terms of its entrepreneurial growth has been because they do not let their banks and whatever else they call them--I guess they call them trust companies--pay a return on just a simple deposit, which is very safe, vis-à-vis taking a run in the market or creating risk.

The other thing that bothers me too is that banks--I do not want to libel them or slander them, but they tend to be very risk-conscious, so that the first time something looks a little dicey in the portfolio or in the business of an individual, perhaps who has been carrying on a very successful business with them over the years, they call the loans and put the person into difficulty. And that certainly, to me, is not maintaining the positive competitiveness in this country. What it is doing is it is creating a monopoly for trust companies and banks to thrive on the typical Canadian tradition of trying to find the least risk-worthy place to put their money, and I think it works counterproductive to . . .

MR. FERRARO: So does the government; the government savings bonds . . .

MR. CALLAHAN: Well, I am sure that that is perhaps of a similar vein, but it just troubles me that we continue to perpetuate that net, and as a result of it, people who require equity capital are forced to go to these institutions and meet all of the demands of those institutions with all of the frailties, perhaps, of their inward conservatism. Perhaps that is the reason we do not grow the way the United States does.

I just make that as a comment because it has always been one that bothered me, that you can get--if you can get 10 per cent on putting it into a GIC, why would anybody ever invest money in a risky--or a business proposition where they have no assurance of receiving that type of return? That is all I have to say. I do not think

that is a question; I think it is more a statement that has always bothered me as to--certainly I think it is something that should be looked at in this province, perhaps in this country, is that if we are going to get moving, instead of always relying on government to come up with the money to start or to buttress up a business, the competition should really be there. And I do not think it is there.

The other thing too is, if I might . . .

MR. CHAIRMAN: Is this a question?

MR. CALLAHAN: Yes. Just out of that, is there any involvement through your Ministry in terms of perhaps the interest rates, or is that an internal management thing, as to the interest rates they will provide on RRSPs or GICs? Is that a management thing?

MR. DAVIES: In terms of the setting of the rates being offered by deposit-taking institutions?

MR. CALLAHAN: Yes.

MR. DAVIES: We do not have a role to play directly in the setting of rates, no.

MR. CALLAHAN: Do you have a role on the other side of the coin, of eliminating them from doing the same thing--and I am really spinning far afield now, Mr. Chairman--of what the gas companies do, where they all charge the same price and really take away any market activity where you can go shopping and find the best rate? Is there any input by--or should there be any input by government in that respect?

MS STEPHENSON: Are you talking about gasoline?

MR. CALLAHAN: Gasoline, gasoline.

MR. DAVIES: I would hazard to guess that the capital markets and the increasing internationalization of capital markets has made interest rates and other returns so competitive that the market really is competitive on interest-rate setting. To the extent that there was interference with that, I am not an expert in this field, but there may be some generic consumer protection legislation outside the financial institutions area that could be brought to bear on the matter.

But it has been my--in my exposure to the financial services area, interest rates are extremely competitive, and an eighth of a point makes a big difference.

MR. CALLAHAN: Well, I found that interesting because I went to one bank for a person with reference to a mortgage, and they were looking for a very small mortgage and they had great equity in the house, and I said to the bank manager, "Shouldn't the rate be less,

because interest is supposed to reflect the risk?" He said, "No, no. I charge this amount. The guy across the street, . . ." which is a different bank, ". . . charges the same rate." So there really is no competition.

It is a--I would not want to say that they join together to set the rates, but certainly there is very little flexibility in terms of competition.

Thank you very much.

MR. CHAIRMAN: Mr. McKenzie.

MR. McKENZIE: On top of page 17, you make the point that the legislation works on the assumption that when there is a choice between the maintenance of public confidence in the industry and some other worthy goal, such as greater competitive capacity in registered corporations or, say, deregulation, the conflict must be resolved in favour of the maintenance of the integrity of the system. To what extent is deregulation a thrust or a pressure or a threat?

MR. DAVIES: In the trust companies area? I would defer to my colleagues, who actually have worked through this Act and sat in on those White Paper hearings and so on. But I would suspect that the industry would say that the proposed legislation is as much a piece of regulatory statute limit as the existing Act. And in fact, some critics of the bill say it over-regulates.

MR. McKENZIE: So there would be a thrust towards deregulation still within the industry, then.

MS PARRISH: I think probably the best way to characterize it is probably "reregulation," to use another jargon term. But what is really happening is that the focus of regulation is changing.

The current Act regulates very much on a list of safe investments: you cannot invest in shares unless they have earned a record of X over four years out of five. And they have a lot of very, very detailed investment rules because at one time it was felt that the best way to make sure that trust companies and loan corporations did not get into trouble was to have very restrictive lists that said you can do this on Tuesdays, you cannot do this on Fridays--all focused on investments.

Now, things have changed since 1948, and as a result, I think that there is a sense that the focus of regulation should be first on the regulatory controls. That is, the regulator should have a series of controls to deal with the problems as they develop, instead of having, you know, sort of regulatory powers which are on the one side sort of nudging and winking, and on the other side an atomic bomb.

So the sense was that there should be a more--a system of regulatory powers which responds to the problems. If the company is

having a problem with X, then let us deal with the problem X.

The other thing the Act does is that it deals with things like self-dealing, conflict of interest, corporate governance. Those issues were not as pertinent at one time.

On the other side, on the investment area, it gives the trust companies more latitude. It does not, for instance, tell them that they can only invest in secured shares that have an earnings record of X or Y. It says to them, you have a responsibility to be a prudent investor, you may invest within certain limits, certain quantitative limits, and so on. It gives them more investment latitude within certain parameters.

On the other hand, it focuses in on self-dealing, corporate governance and so on. So what is really happening is, the focus of regulation is switching from one area to another. So I think "reregulation" is a description of what is happening in terms of the regulatory approach.

The regulators are no longer going to regulate those things which no longer need to be regulated in the way they have been regulated in the past, and are focusing on those things which are perceived to be of concern to the public interest.

MR. McKENZIE: It is more an updating of the regulations; it is not a deregulation.

A SPEAKER: A modernization.

MS PARRISH: Yes, modernization is a good word too, because there are a lot of very old-fashioned elements. This is a very old bill, the current legislation.

MR. CHAIRMAN: Mr. Foulds.

MR. FOULDS: I have got a couple of questions I would like to put to you. One is, how many loan or trust companies have failed?

MR. WILBEE: Nationally or in Ontario?

MR. FOULDS: Both.

MR. WILBEE: I believe the number nationally--and I am going on memory--I believe it is somewhere in the area of 20 in that time period. In Ontario, Ontario companies, there have been the famous three: Greymac, Crown Trust and Seaway.

MR. FOULDS: That is not since 1980.

MR. WILBEE: Well, that is not since 1980. Beyond that, there have been two--I am sorry, one small loan company, the London Loan Company. There was another loan company known as TermGuard, which virtually had a zero net worth and it was being--it was under

our administration for a period of a year until it was purchased by a strong company known as Counsel Trust.

So that the Ontario scene has not been too cloudy since the major collapse of the two trust companies. But there have been a number of loan and trust companies nationally that have gone under, the more famous ones being Pioneer Trust.

There have been quite a few western trust companies that do not operate--had not operated in Ontario that have also gone under because of the troubles there.

MR. FOULDS: Do you have a feeling for the number of operations in Ontario?

MR. WILBEE: You mean who failed operating in Ontario?

MR. FOULDS: Who were operating in Ontario and have failed since 1980.

MR. WILBEE: I am trying to think beyond Pioneer Trust. I am not sure--Western Capital Trust, I think had some functions here.

MR. FOULDS: So there would be about seven or eight?

MR. WILBEE: Maximum, yes.

MR. FOULDS: Okay. And that includes Crown, Greymac and Seaway?

MR. WILBEE: Yes, yes.

MR. FOULDS: Has the Ministry given any thought, because of those failures and the national scene, to raising the standards of entry into the trust company business?

MR. WILBEE: Well, I think you would find that Bill 116 does indeed raise the standards considerably in a number of ways: not only the corporate governance that we talked about, but initial capital requirements have been raised considerably. For a loan company, you have to have \$5 million capital as opposed to--was it \$100,000 or \$500,000 before--\$500,000 now, and trust company, \$10 million. A company allowed to do commercial lending would require \$15 million, which are quite considerable increases in terms of the cushion you have to have for depositors.

MR. FOULDS: Trust company was \$1 million.

MR. WILBEE: Trust company was \$1 million, right.

And the other aspect which we have also touched on today is the equals approach, which imposes on companies coming in from outside Ontario the same standards, in all material respects, as are required for native Ontario companies. So yes, these things have been

considered.

MR. FOULDS: Can I go to another area . . .

MR. CALLAHAN: Before you go, could I just ask something on that?

MR. FOULDS: Sure.

MR. CALLAHAN: It was indicated that one of these companies was taken over--looked after, I guess, by your department. In an instance like that, if the Canadian Deposit Insurance Company has paid the depositors and someone comes along, as in this case, and buys the company, are they required to pay back the Canadian Deposit Insurance Company or do they buy it . . .

MR. WILBEE: The sequence of events you describe is not correct. The company had not been paid out by CDIC. The company was in trouble--its capital had been depleted by a series of financial bad years, and it was in trouble to the point that our office insisted on a certain composition of board of directors and a certain management team to be in place, reporting, in effect, to us. And their instructions were simply to keep things on a holding pattern, not to do anything dramatic.

And it may come as a surprise--it did to me, because I recently joined when I learned of this--that there was no clamour among the depositors to get their money back. They felt quite secure. Even though there were actually some that had in excess of \$60,000, they did not feel any anxiety to get out, although a number did, and there was a quiet rundown of the deposits and a quiet sell-off of the investments to finance that.

And this took place over a period of a year, which I guess was longer than we had envisaged when we started the thing. But there was no reason to do anything. It was benefitted by a period of falling interest rates, and the company was quite comfortably coasting and there were a number of existing large trust companies that had expressed an interest in it, and there were negotiations apace.

CDIC was certainly well involved in it, but they had not been required to contribute any money at that point. In fact, if the company had had to be dissolved, it is unlikely they would have even had to put any money into it because there seemed to be enough in the way of assets to keep it going.

But I use that as an example, and certainly it is a form of regulation that I hope to encourage, not the wait-until-the-last-minute and then lock the doors, but to be involved very early when there are problems and hopefully resolve them even earlier than this one.

But in this case, it did have a happy ending in that it was

taken over by another company, and that is why I included it in that list. It did get some press as a failing company when it was failing, but in the end it was subsumed into a larger company.

MR. CALLAHAN: So it was just a trusteeship. But what would happen if a company did fail and some other company came along and wanted to buy it? Would they have to pay back the Canadian Deposit Insurance Company . . .

MR. WILBEE: They would, in effect, be dealing with CDIC as the new owner. CDIC would take the place of the owner and bring about an orderly wind-down of the company. And one of the options is to sell it as a going concern, and the other is to sell the assets in bulk or separately.

MR. FOULDS: I wonder if I could . . .

MR. CHAIRMAN: Just before we continue with questions, I know you mentioned that Mr. Wilbee needed to leave about now.

MR. FOULDS: This is important . . .

MR. CHAIRMAN: Well, if you need to leave, perhaps you should feel free to leave and we can--it is not inconceivable that you people can come back and continue this session this afternoon, or in alternative, I am prepared to continue on now. I just have a couple more questions, though, and I . . .

MR. DAVIES: If I could ask if we could continue now? The afternoon is otherwise occupied, and . . .

MR. CHAIRMAN: I appreciate particularly, Mr. Wilbee, your continuing to stay here.

Mr. Foulds.

MR. FOULDS: The other three questions I have apply specifically to trust companies, but I was wondering about the area of access to information for consumers, depositors, and I think both on the insurance side and in--well, in the trust companies and in all the financial institutions, what thrust or what steps is the Ministry taking other than reading the business reports and financial papers and so on, so that the depositors, consumers have more knowledge of what is happening in their company that could affect them?

MR. WILBEE: If I could mention some of the things that are--appear in the Bill 116, there are greater disclosure requirements imposed on loan and trust companies. Quarterly statements are required to be prepared; they are required to be available to depositors on request.

MR. FOULDS: Is there a requirement for public publication?

MR. WILBEE: Annually, but not quarterly.

MR. FOULDS: Okay.

MS PARRISH: One of the--there is a requirement in the Bill 116 that there be a public file which people can have, and there is also--it is a requirement--the depositors can obtain a copy of the annual report, and that the annual report of all loan and trust companies be public documents, whether or not they are publicly-traded companies.

Currently, the annual statements of loan and trust corporations are publicly available if they are publicly-traded companies, but not otherwise.

The new bill says if you take public money, you are a public company; you have to disclose the same information. There is also a regulation-making power which would enable a regulation to be passed which says your annual statement must contain X, Y, Z, and--that could be over time--can require certain kinds of disclosures of various kinds of accounting, you know, changes.

MS STEPHENSON: I think it matters, that kind of control over disclosure of the financial institutions. Would you please transmit it to the individual responsible for the universities so that we could have some kind of public disclosure of their full situation, which we do not have at the present time?

A SPEAKER: Hospitals as well, Betty.

MS STEPHENSON: Well, the hospitals would be helpful. The universities are--hospitals do not have much . . .

A SPEAKER: Some of them have lots of property too.

MS STEPHENSON: Really? I do not know of any that do, but that is all right. But I would like to know some universities . . .

MR. DAVIES: If I could just add on to Colleen's answer, the one caution that I would add, however, is that, as I mentioned in my notes, most depositors are not necessarily going to be sophisticated analysts of financial statements or financial information. So while this fuller disclosure is laudable, I would hesitate to rely on it as the mechanism to ensure efficient and effective consumer protection in and of itself.

MR. FOULDS: So what other steps are you taking to ensure that?

MR. DAVIES: Well, the various requirements are solvency and avoidance of self-dealing and conflicts of interest.

MR. FOULDS: Can I ask a very simple question? What is self-dealing?

MR. DAVIES: There probably is no technical definition written down anywhere. Some people that I believe are on your schedule to appear before you take umbrage at the phrase "self-dealing." They much prefer to use the term "related-party transactions," and perhaps that conveys the sense of what self-dealing is intended to imply, which is: transactions where the parties are not at obvious arm's length, one from the other.

MR. FOULDS: Just a question about insurance companies. Is there any thrust that the Ministry can see with general insurance companies being possibly taken over by other financial conglomerates? In other words, is there any thrust of the four pillars merging a little?

MR. DAVIES: You mean in the general marketplace, is that tendency occurring? I think the facts speak for themselves. Yes, to some degree, that is happening.

There is one financial services holding company that now has a property and general insurance company as well as a life company, as well as having a relationship with a trust company.

MR. FOULDS: Is that of concern to the Ministry?

MR. DAVIES: Well, our approach historically has been to look at regulation by segment or sector, and the standards and conditions that we would impose on a trust company, for example, would remain equally rigorous as to whether or not the ultimate owner of that trust company also happened to have an insurance company.

There is no permissible interlinking of the two directly..

MR. FOULDS: I am sorry, I do not follow your last statement.

MR. DAVIES: Well, I am not expressing it as clearly as I might. The objective, the general policy principle is that the capital requirements and the other requirements for one pillar, for a trust company, cannot be intermingled with the insurance company.

The insurance company has to meet its own set of standards and criteria. The trust company has to meet its own set of standards.

MR. FOULDS: But if we are concerned about corporate concentration, what you seem to be saying to me is that there can be increasing corporate concentration and none of your regulatory powers could prevent that, in a transfer of that concentration between your so-called four pillars.

MR. DAVIES: I am not certain I follow as to what you are getting at about the . . .

MR. FOULDS: Well, the insurance companies could be taken over by the loan and trust companies, to put it very crudely.

MR. DAVIES: They cannot be taken over directly by a loan and trust company. A loan and trust company, as I understand it, cannot invest in an insurance company, but at the holding company level, indeed, it could and has occurred.

MR. FOULDS: And similarly, an insurance company or mortgage company could be taken over by a bank?

MR. DAVIES: By?

MR. FOULDS: A bank.

MR. DAVIES: There I think you will find that the federal--I am not an expert in the Federal Bank Act, but I do not think that that could occur under the Bank Act at present. Colleen may want to add to that.

MS PARRISH: They cannot get into the business of insurance, but they can and do own mortgage corporations.

MR. FOULDS: Banks?

MS PARRISH: Yes. Mortgage loan corporations. But they do not own insurance companies.

MR. FOULDS: I think that is enough for me for now.

MR. CHAIRMAN: Mr. Ferraro.

MR. FERRARO: Yes. I will try to be brief, Mr. Chairman.

The Bill 116 not only addresses, I am sure, the equity contribution needed to start a trust or loan company; I am sure it addresses the other requirements as well as far as expertise and needs for that particular type of facility. I assume that. My question--and it is unfortunate Mr. Weir left. Maybe Mr. Wilbee or Mr. Davies could answer it.

At one time, I can recall there was a private mortgage insurance company that started up years ago, MICC. I am sure you are familiar with it. An executive told me that they actually got hell from the--I think it was the superintendent of insurance, because they had not exposed themselves to enough risk, which has some merit on what my colleague Bob Callahan was discussing.

Now, they certainly made up for it when everything hit the fan in subsequent years. But my question is this: who has the responsibility in that vein, if in fact there is that responsibility in dealing with trust companies and loan companies in Ontario, or essentially is that the CDIC's responsibility to monitor not only how much exposure the institution has, whether it be negative or positive,

and do they implement their discretion in that regard?

MR. WILBEE: I would not want to comment on the earlier part of your question because I have no firsthand knowledge of it. I can only try to relate the approach taken by us.

The primary responsibility for monitoring a company's performance and the solidity of its investment base is the regulator's, and for Ontario corporations, it would be in my area. CDIC's responsibility concentrates on solvency, and really, they are highly reliant on the regulators to bring to their attention areas where solvency is becoming risky.

As to the qualitative nature of investments, beyond the risk factor or beyond what we call "mismatching"--in other words, where deposit instruments are maturing at a different pace than investment instruments, which could cause liquidity problems--and beyond the fact that investments should be prudent, certainly I do not feel it is incumbent on a regulator to suggest to a company that it should have a different type of portfolio in the qualitative sense of, as you say, "You are not taking enough risks." I could hardly imagine the words coming out of my mouth, frankly!

But it is--or, "You should be lending to, you know, certain groups that are more disenfranchised," or what have you. I think that would be something that would possibly emerge in other quarters of the government. But my concern and my area would be simply with, can the company really service its obligations and are the depositors' investments secure.

MR. FERRARO: Do we limit in any way, shape or form, international investments by trust companies?

MR. WILBEE: Yes. All their investments are required to be in Canadian corporations or based on Canadian security, Canadian land, et cetera.

MR. FERRARO: Do you know, does the federal government have limitations on what the banks can lend internationally? Because a bone of contention with a lot of consumers is that if they lose \$50 million in Mexico, we end up paying for it here.

MR. WILBEE: I wish I could answer the question. Obviously, I know they are allowed to make foreign loans; in fact, I think it is often encouraged for other reasons of international trade and so forth. But I really am not an expert in Canadian banks.

MR. CHAIRMAN: Just perhaps a summary question, if you can address it. To what extent--you have mentioned several times that the present legislation is very antiquated. To what extent would you say we are way behind in dealing with modern problems, with the legislation as we have it right now?

MR. DAVIES: Well, as the Deputy Minister ultimately

responsible in this area, and I am sure the superintendent, as the person responsible under the Act, I can tell you I would rest much better having the new Act in place. I think many of the amendments are long overdue.

MR. CHAIRMAN: And it is so rigorous--it is so rigid that just cannot address a lot of problems with it.

MR. DAVIES: There are many aspects of the new bill that would give us much more capacity to address the needs of today, yes.

MR. CHAIRMAN: Thank you. As I think is obvious from the number of questions, we really do appreciate your taking time to come here. The overview you gave us is going to be of constant assistance over the next few weeks, as well as the specific answers to specific questions. I rather expect we may need to call upon you from time to time again over the next few weeks.

I appreciate your coming. I appreciate, Mr. Wilbee, your staying here this long, and perhaps you can convey our thanks to Mr. Weir for his attendance as well, and Ms Parrish.

MR. DAVIES: Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you.

I am going to have a very brief meeting right now to discuss some of the scheduling problems that were raised, and if each caucus would like to have someone attend, you are quite--I would be delighted. And if you do not wish to, that is fine too.

The Committee adjourned at 12:21 p.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

TUESDAY, SEPTEMBER 16, 1986

Afternoon Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Stephenson, B. M. (York Mills PC)

Ward, C. C. (Wentworth North L)

Substitution:

Callahan, R. V. (Brampton L) for Mr. Ward

Also taking part:

Morin-Strom, K. (Sault Ste. Marie NDP)

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

ERRATUM:

Mr. McKenzie should be Mr. Mackenzie throughout this issue.

ONTARIO LEGISLATIVE ASSEMBLY

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

September 16, 1986, P.M. SESSION

The committee resumed at 2:12 p.m. in committee room 2.

MR. CHAIRMAN: This afternoon we are going to discuss some of the problems that I think some of us alluded to this morning, and just making sure we know where we are going in the next few weeks, with David Bond, our researcher. So in essence it is an introduction to David, who has been extremely helpful to me and actually to the Committee over the last few weeks in preparing a lot of the material that you have been, I presume, getting some of it at your offices. So David has some notes. He has also given us a fairly detailed Exhibit 9 this morning that you may wish to have reference to. And this morning also he prepared some--a brief which was helpful to us in questioning the Ministry.

David--oh, just before we start, though, two things to put on the record. One is I think we--I hope within the next day or so we will have solved the problems that we were concerned about, about investment dealers and about the insurance industry.

And we also discussed at noon the new book by Diane Francis, "Controlling Interest." This book has been written by Diane Francis, who is a reporter with the *Toronto Star*. We are attempting to obtain her so she can come here and we can talk to her about it. Some excerpts from the book were in the *Star* last week, and she is speaking on the 2nd of October to the Empire Club here in town. Dr. Stephenson is a member of the Empire Club and has kindly consented, if we . . .

MS STEPHENSON: David is as well.

MR. CHAIRMAN: Oh, fine. If we can give one or other of Dr. Stephenson or Mr. McFadden our names, preferably right now, if we are prepared on the 2nd of October, which is a day the Committee is sitting, to spend our lunch hours down there and perhaps give him a cheque for--\$18.00, is it?

MR. BOND: No, it is only \$12.00 if a member buys the tickets.

MR. CHAIRMAN: Twelve (\$12.00) dollars.

If we feel that we can probably sneak out to the subway and down there at lunch hour on the 2nd, it would be extremely worthwhile.

MR. CALLAHAN: Do you think any heads will be turned by that?

MR. CHAIRMAN: I am sorry, what is that?

MR. CALLAHAN: Do you think any heads will be turned by that?

MR. CHAIRMAN: By our coming in?

MR. CALLAHAN: By us being there?

MR. CHAIRMAN: Well, we do not need to come as a group, a street gang or anything, we just would like to hear what she is saying to them and it would assist us in what . . .

MS STEPHENSON: We would not intimidate anybody, so I am not sure what you are worried about.

MR. CHAIRMAN: So I will leave you to think about that for a few moments.

In the meantime I would entertain a motion that copies of this book might be purchased for the Committee.

MR. ASHE: Mr. Chairman, may I . . .

MR. CHAIRMAN: You are so moving? Yes.

MR. ASHE: Yes. Well, it is only relevant to what you were just talking about for lunch. I notice that is one of the--probably the busiest, at the moment, scheduled days there is, so if some of--either the one before or the one after lunch can be moved or at least advised of the flexibility we will need, because there is no way we are going to get down there and--well, I do not know what time it starts, 12:00 or 12:30--and back again.

MR. CHAIRMAN: She speaks from 1:00 to 1:45, but I think your point is well taken.

MR. ASHE: Well yes, but if we are going down for lunch we might as well eat. I presume there is lunch.

MR. CHAIRMAN: I think that all we can do is instruct Mr. Carrozza to see if we can adjust, if it is possible. I know you are saying that we cannot, but . . .

THE CLERK: The Ministry of Consumer and Corporate Affairs is in Ottawa. . .

MR. CHAIRMAN: That is the Federal Ministry.

THE CLERK: . . . and they asked for that specific time.

MR. CHAIRMAN: As opposed to, say, 3:00?

MR. ASHE: October the 2nd, you said?

THE CLERK: October the 2nd, sorry.

MR. ASHE: Yes. That is the United Food and Commercial Workers Union and Trilon Corporation, before and after lunch.

THE CLERK: I can speak to the Trilon people.

MR. CHAIRMAN: See what you can do just to, perhaps, lighten up the burden on that day.

THE CLERK: Sure.

MR. CHAIRMAN: Okay.

Any other business before we turn this . . .

THE CLERK: Have we got that motion passed yet?

MR. CHAIRMAN: Oh, I am sorry, yes. The motion is on the floor. Any discussion on the purchase of the book?

Carried.

MR. CHAIRMAN: Good thing we did that before the NDP arrived!

All right. Mr. Bond.

MR. BOND: Good afternoon.

I have placed an article before most of you. It is called *Besieging the Banks* and it is pertinent to tomorrow's speaker from the Canadian Labour Congress, Mr. Ralph Ortlieb, who is also a regional director of organizations for the CLC, and he is also director of the Union of Bank Employees, 2104 Ontario. That should be a good preparation for tomorrow's speaker.

This afternoon I would just like to speak to some of the--to what I think are the main issues in concentration in the financial services sector. One of the chief concerns raised in the discussion of regulatory change in the Canadian financial system is the possibility of increased concentration emerging as a consequence of relaxing constraints on competition along inter-industry lines.

We will probably consider the economic and regulatory concerns that would be raised by increased concentration, and the possibility that relaxing these barriers might indeed increase competition in the short run, but in the long run might lead to the demise of--or absorption of smaller institutions and thus to a more concentrated, less competitive system in the long run.

From an economic policy perspective, concern about the

degree of concentration within an industry stems largely from the belief that the behaviour and performance of firms is in part determined by the structure of their industry, and moreover that non-competitive behaviour will be fostered in a highly concentrated market environment, and that the efficiency of the industry will be impaired by the loss of competitive market discipline.

A highly concentrated market structure is not, of course, necessarily undesirable. For example, in some industries economies of scale or scope might be sufficiently large that the most efficient market structure could be a monopoly, as is the case with utilities firms, for example.

However, a highly concentrated market structure raises other, not purely economic concerns. For example, when firms get very large the costs associated with their failure become so great that they cannot be allowed to fail. I think we dealt with that a bit this morning. The question was raised: what would happen if a major--a big trust company failed? Could we handle it?

So we can see that in the case of large financial institutions this could be a very serious problem.

There is also an additional set of issues arising from the potential for social and political power to derive from the concentration of economic power. For example, the concentration of economic activity in the hands of a few firms places the owners and chief executives of these firms in a position to exert influence over public policy and public opinion. Moreover, their decisions can have important impacts on output, prices and employment, discernable even at the macro-economic level, and take on added significance, therefore, in the context of the political economy.

These issues, as Mr. Davies mentioned this morning, have been examined by the Royal Commission on Corporate Concentration, chaired by Mr. Bryce. However, many of the issues were not covered adequately by the Commission and there have been many changes since then in terms of the growing number of financial supermarkets and the integration of the financial services sector in general.

The growth of domestic financial institutions can also be considerably enhanced by an increased presence in foreign markets. Growth abroad would not, of course, impact on concentration in domestic markets, but in some ways significant presence abroad could be a competitive advantage to the domestic operations of these firms.

That is one of the main arguments, I think, we will be hearing from some of the larger financial conglomerates and from some of the banks, if they agree to appear here: the fact they have to be large in order to compete with very large American financial conglomerates.

The greater presence abroad for Canadian financial

institutions raises the issue of reciprocal treatment of foreign-owned institutions in Canada and potentially an increased foreign participation in domestic markets. While an increased foreign presence would increase the competitiveness of the domestic market, it would also raise issues regarding Canadian control of domestic financial affairs.

The economic and regulatory issues surrounding concentration of economic activity are discussed later in this paper. We will also consider the circumstances under which the financial system might become highly concentrated.

David?

MR. McFADDEN: Can I ask you a question?

MR. BOND: Sure.

MR. McFADDEN: Are you reading from one of the papers you provided to us . . .

MR. BOND: No, I am not.

MR. McFADDEN: . . . or is this a separate study?

MR. BOND: These are separate notes that I have taken.

MR. McFADDEN: Okay. That is fine. I just was not sure.

MR. BOND: Now I would like to just talk briefly about concentration of economic activity and public policy concerns.

Economic theory suggests that the structure of an industry exerts an important influence on the conduct and performance of firms that comprise it. The ideal market structure is generally considered to conform closely to the model of perfect competition. In this model, firms are highly competitive but small, relative to the size of the overall market, and do not therefore exercise any individual influence over the price and volume of trades made within the market. Under certain conditions, such a market structure leads to an efficient allocation of resources and optimal price/quantity outcomes.

The highly concentrated market departs from this model in a number of important ways.

First, some firms are sufficiently large to exercise market power, thereby affecting both the quantity and price of the goods made available in the market.

In a financial markets context, such behaviour could manifest itself in the emergence of credit gaps, wider interest rate spreads and higher service charges for financial services. The profitability of large financial institutions could also be enhanced

under these conditions. However, for greater profitability to persist in the long run, entry to the market would have to be restricted by some type of barriers, either legislative or whatever. High interest start-up costs or successful use of exclusionary practices by the established firms would be another method.

MR. FOULDS: High what?

MR. BOND: High start-up costs.

MR. FOULDS: Okay.

MR. BOND: A variety of inefficiencies could also arise in a highly concentrated market: the avoidance of price competition through tacit or explicit collusion, and an increase in potentially wasteful non-price competition such as non-informational advertising.

Another hypothesis suggests that the reduction in competitiveness resulting from collusive behaviour between firms could lead in turn to a relaxation of internal cost control by management. This X inefficiency results in an increase in costs which can erode any excess profits accruing to the firm from the exercise of market power.

The absence of excess profits in a concentrated market situation is not therefore a certain sign of competitive behaviour of the firms involved.

Finally, the reduction of competition could result in a lack of innovative behaviour. As a consequence, the range and quality of services which the industry is able to provide could be diminished and potential cost efficiencies could be foregone.

There are a number of offsetting considerations, however. In some instances, economies of scale could be sufficiently large that the optimal size of a firm would be large relative to the size of the market, and a perfectly competitive model would not be ideal.

Moreover, it has been suggested that large firms have the resources to mount research and development efforts and are indeed an important source of innovation, contrary to predictions by some quarters.

As well, large firms may be better able to meet the capitalization costs of adopting new technology. Also, a country such as Canada, whose economy is small relative to her main trading partners, may find it beneficial from a perspective of international competitiveness to have large firms.

Any questions?

As I was saying, Canada may find it beneficial from the perspective of international competitiveness to have large firms, even though this may entail the toleration of high degrees of

concentration in particular domestic markets.

I think one of the main conclusions of the 1978 Royal Commission on Corporate Concentration was that Canada needed these large corporations to compete internationally and therefore concentration was acceptable--an acceptable price to pay.

Finally, large firms with diversified activities may be able to weather business reverses that would lead to the failure of smaller firms. Moreover, conglomeration is often suggested to sharpen the competitiveness of component firms without raising market concentration, by providing them with additional managerial resources and financial depth.

This is actually the claim made by most of the financial conglomerates, for example Trilon, Hees International, the Great Lakes Group. Basically they are saying they provide a good deal of managerial expertise that some of these firms lack, and therefore they are providing a benefit.

The concentration issue is even more complicated when the dynamic processes which actually produce or maintain concentrated market structures are considered. For example, highly competitive behaviour by efficient, aggressive firms could conceivably result in the emergence of a concentrated market structure. In this case, structure would be determined by conduct and performance, reversing the paradigm typically used. In these circumstances, a policy aimed at preventing an increase in concentration would be counterproductive, at least in the short term, as it would entail restricting the growth of the most efficient firms.

The latitude for firms to persist in non-competitive behaviour over the long run would depend significantly on the persistence of barriers to entry, legislative or other. As long as entry is possible, inefficient behaviour by existing firms would create the competitive opportunity for more aggressive firms to enter the market or to capture additional market share. Inefficient behaviour over the long run also raises the possibility of takeovers and the replacement of management teams.

Even in the absence of competitive market structure, therefore, some market forces could be brought to bear on a concentrated industry to minimize the behavioural problems. The attempts to prevent a concentration of economic activity from occurring by restricting the growth of the most efficient firms could, therefore, be counterproductive, both in the long run and in the short run.

From an economic perspective it is market concentration, or the concentration within a particular activity, which is of concern. The definition of financial activities becomes, therefore, an important issue as well. For example, an increase in diversification of activities by financial institutions could result in a decline in the total number of firms within the system while raising the number of

firms engaged in particular activities.

By some measures--share of financial system assets--concentration might then be seen to have increased, while by other measures- e.g., share of the mortgage market or share of the deposit liabilities market--concentration might be seen to have decreased.

Moreover, at a time when technological improvements are shrinking distances, the appropriate definition of the market in a geographical sense becomes an important consideration when measuring concentration. For example, some decline in the number of domestic financial institutions engaged in a particular activity might be more than offset by increased access to international markets for those services.

Similarly, a decline in the number of regionally based firms might not indicate growing market concentration in any regional market.

From other purely economic perspectives, the cause for concern over concentration seems to be more clearly established. It is widely perceived, for example, that large corporations will not be allowed to fail because of the detrimental effects on the economy such failures might have.

In effect, the government is seen to provide large corporations with a safety net not available to small business and private individuals.

This concern is clearly well founded in the case of financial institutions, since maintaining solvency is the most important goal of financial institutions policy. Thus, by allowing financial institutions to grow very large, the government may accept an implicit commitment to sustain them in the event of business reverses.

Moreover, from a regulatory perspective, a highly concentrated market structure increases the onus on authorities to ensure that the exercise of market power generated by concentration does not lead to abuses. In a sense, regulatory discipline must replace market discipline in a highly concentrated environment.

The extent to which concentration of economic activity in a particular market in the hands of a few firms is a cause for concern on purely economic grounds is, on balance, not easy to establish. There are various offsetting arguments and the question appears ultimately to be an empirical one. High concentration does impose an additional burden on the regulatory authorities. Moreover, it can intensify any problem which arises with regard to potential conflicts of interest, and raises a number of non-economic social concerns. These issues should also be borne in mind when the economic issues are being considered.

Thank you. If there are any questions . . .

MR. CHAIRMAN: You raise a lot of interesting theories, and what kept running through my mind was, how can we test these theories when we are talking to our witnesses? They are obviously all going to have their own biases.

MS STEPHENSON: But you have that in any circumstance in which you are discussing items with witnesses.

MR. CHAIRMAN: Well, I suppose we do, but . . .

MS STEPHENSON: I am not sure that this is any worse than any other.

MR. BOND: I think they are going to balance each other off, in a way. For example, what the financial conglomerates say to us about the banks is going to be countered with what the banks say to us about the financial conglomerates, and what the unions say to us about the banks, the banks will counter, et cetera. I think we are going to get a very diversified look at the issue.

MR. CHAIRMAN: It is just that, for instance, you mentioned--I take it it is the American point of view generally, historically, that more competition is better, and therefore they have historically had more--had stronger anti-trust laws and so forth, and we have to balance that with I suppose the Japanese experience of encouraging large industries. It is just hard to--I guess there is not any magic schedule on which you decide who is really most efficient.

MR. BOND: It is an interesting question. The recent Macdonald Commission report stated that whereas four-fifths of U.S. industry was effectively competitive, or it operated in a free market situation, only two-fifths of Canadian industry operates in a competitive environment. So--and we have had different traditions between the United States and Canada vis-à-vis mergers and competition law. U.S. merger and competition law has always been much tougher.

MR. McKENZIE: Does that competition position, two-fifths as against four-fifths, take into account or allow for the kind of a branch plant economy we have in so much of our industry, for example where there are restrictions that are placed on the operation in terms of their competitiveness or viability or international sales, or--you name it?

MR. BOND: I do not believe it does, but I believe it does take into consideration the fact that Canada has so many more Crown corporations operating in either monopoly or oligopolistic situations.

MR. McKENZIE: But that could conceivably skewer those four-fifths and two-fifths figures . . .

MR. BOND: Yes.

MR. McKENZIE: . . . fairly effectively?

MR. BOND: M'hm.

MR. CHAIRMAN: Skewering it, though, in what way, Bob?

MR. McKENZIE: Well, if you have got--you are obviously going to have a lesser percentage than the Americans that are competitive if you have got branch plant industries here that are operating only to provide a specific market and cannot go beyond that, or where the sales even are to the same . . .

MR. BOND: Right. Yes.

MR. CHAIRMAN: Would they have been considered uncompetitive by themselves?

MR. BOND: No. They would have been considered competitive. So those would be part of the two-fifths that are competitive. But what I guess you are saying is that they are limited in that they cannot be internationally competitive . . .

MR. CHAIRMAN: Yes.

MR. BOND: . . . so they cannot develop an export-oriented. . .

MR. CHAIRMAN: But that is not--I do not think that is what Macdonald was saying.

MR. McKENZIE: Yes, but how do you make that competitive, even? They, because of the smaller production, the fact that they are set up only to provide a certain market--I am not sure how you are measuring competitive. You call them competitive; in many cases they are not.

MR. BOND: Well, I guess they are saying they are competitive within their own market, even if it is limited to a Canadian market.

MR. McFADDEN: I can see what he is getting at. They are competitive domestically with each other. That does not mean that they are competing worldwide.

MS STEPHENSON: And it is the same definition being used for the classification of those firms which are in fact competitive in the United States. Are they talking about their own national market or are they talking about international markets? Surely they are not using apples and oranges to compare the two?

MR. BOND: No, they are talking about their own domestic. . .

MR. FOULDS: I would suspect there are not a lot of branch plants in the United States, though. And I do not know that.

MS STEPHENSON: As a matter fact, there are an

increasing number.

MR. McKENZIE: Well, it seems a fairly recent phenomenon, though.

MR. CHAIRMAN: Okay, David. Mr. McFadden.

MR. McFADDEN: The concentrations of ownership--I reviewed the material that you prepared before, and of course there has been quite a bit written--I do not know what this book by Diane Francis indicates--but it seems to me the concentration of ownership and conglomerates in general in Canada have been Canadian-owned. I am just thinking of the large ones now, the Reichmanns, Brascan, both ends of the Bronfman family, the Jackman family, the Argus Corporation. The bulk of the big conglomerates in Canada--yes, CP--have been Canadian-owned. So in fact it has been a pattern among Canadians that has led to quite a concentration of ownership, has it not?

MR. BOND: That is quite true. In fact even recently Genstar, who is a California-based corporation, had owned Canada Trust, one of Canada's largest trust companies, and in fact it was recently bought out by a Montreal-based firm, Imasco. And then Genstar was--the non-financial aspects of Genstar were sold off. So in fact, yes, it is Canadian-controlled, the financial sector generally.

MR. McFADDEN: And because there are not as many Canadian companies and groups, that is leading to a concentration of ownership.

MR. BOND: I would say that is the main point. Most trust companies, I believe, now in Canada, if not all of them, are owned by one financial conglomerate or another.

MR. FOULDS: I beg your pardon?

MR. BOND: I said most trust companies now in operation in Canada are owned by one financial conglomerate or another.

MR. CHAIRMAN: As opposed to being on the stock market?

MR. BOND: As opposed to being independent.

MR. FOULDS: Can you elaborate on that . . .

MR. BOND: Yes.

MR. FOULDS: . . . because I am not sure I am quite following you. Are you saying there are two or three financial conglomerates that control all of the trust companies?

MR. BOND: No, I am saying that there are large--quite a number of financial conglomerates that control all the main trust companies. For example . . .

MR. FOULDS: How many financial conglomerates to how many trust companies?

MR. BOND: I do not have those exact figures, but for example Trilon Corporation owns Royal Trust; Canada Trust is owned by Imasco.

MR. McFADDEN: Power Corp controls Montreal Trust.

MR. BOND: Yes. Most of the major trust companies.

MR. FOULDS: If we are dealing in this question of concentration of the financial institutions, is there any way we can get the kind of diagram that illustrates the point that you have just made?

MR. BOND: Yes. There are flow charts of companies that will outline their assets.

MR. McFADDEN: The material that David gave us before contained a lot of this information.

MR. BOND: I will see if I can find it.

MR. FOULDS: Okay.

Sorry, David, you were questioning.

MR. McFADDEN: Go ahead.

MR. FOULDS: I have a couple of other actually rather basic and fundamental questions. What would your definition of "self-dealing" be, David? Because it seems that keeps cropping up on us. Is it in your glossary?

MR. BOND: I have given you a glossary of terms because you were asking those questions this morning, and I thought it would be a good idea if we--I am sorry, I do not have it.

MS STEPHENSON: It is not in here in alphabetical order, "self-dealing."

MR. FOULDS: Is it under "dealing-self"?

MS STEPHENSON: I cannot find it there either.

MR. CHAIRMAN: What was the term that Mr. Davies used for that?

MR. BOND: The other term would be "non-arm's-length" dealings with your company--with that company. Self-dealing, okay, let us see if I can . . .

MR. McFADDEN: If I could give you an example--why don't we get an example rather than worry about a definition--it would be if I were a major developer and I bought control of a trust company and then I used--the trust company then became my major source of mortgage financing. That is self-dealing. Because what I am doing is I control the trust company, I control the development company, and I am using the funds from the trust company to finance my real estate operations, or any other operation. That is the most obvious but it could take all kinds of different forms.

MS STEPHENSON: And the closest to the one we are most aware of.

MR. McKENZIE: It would allow you a fair amount of room to manoeuver and where you are maximizing stock.

MS STEPHENSON: That is right.

MR. McFADDEN: Now, that may or may not be bad. Your investments could be very good investments. It does not mean necessarily that if I own the trust company--I am not necessarily going to put the trust company into bad investments, if I am doing it properly. I think the worry is that if somebody had a bad intent, it could certainly lead to poor investments.

MR. FOULDS: There is some historical evidence to that effect.

MR. McFADDEN: Yes, okay.

MS STEPHENSON: Over-estimation of the value.

MR. BOND: Yes. Self-dealing is of particular concern when there is a co-mingling of functions; that is, if a non-financial corporation buys out a financial institution.

For example, Imasco buys out Canada Trust, and Canada Trust--their board of directors are appointed by, say, the President or the Chairman of the Board of Imasco. Then there may come a time when Imasco runs into financial difficulties and they ask Canada Trust for loans. Now, that would not happen because--well, I should not say it would not happen--it should not happen because there has been a promise by the President of Canada Trust that there would not be any conflicts of interest or self-dealing.

But should Imasco run into financial difficulties and need money from Canada Trust to keep going, then that would be self-dealing in that if Canada Trust loans Imasco large sums of money, and then Imasco continues to run into problems and asks for more money, and in order to protect their original investment Canada Trust has to loan more . . .

MR. CALLAHAN: You could have a run and . . .

MR. BOND: A lot of the insolvencies among trust companies, and even the Commercial Bank, were caused by those types of inside deals.

MR. CALLAHAN: Is that not a two-way street?

MS STEPHENSON: If Imasco, for example, which controls, is actually a holding company and holds several other companies, if one of those other companies were in dire financial straits and Imasco arranged the availability of money from the trust fund or trust company, which it also happens to control, although the money might not flow directly to Imasco it could flow directly to the other company in which Imasco has primary interest. And surely that is again self-dealing. Although it does not go the parent or the holding, it can go to one of the others in the group which is part of the family.

MR. BOND: Yes. And that is the more likely scenario, actually.

MR. CALLAHAN: Isn't that self-dealing in a sense necessary insofar as if Imasco owns or controls Canada Trust, and Imasco is going down the pipe, thereafter will flow Canada Trust?

MS STEPHENSON: Well, it is more likely to occur when one of the holdings of Imasco such as the Macdonald Tobacco Company, for example--which could very well be going down the drain right now--and Imasco asking for funds from . . .

MR. McKENZIE: (Inaudible).

MS STEPHENSON: No, I know, but there are others besides you, Robert, thank goodness, who have learned that--even those of us who did it for a long time have learned that the Macdonald Tobacco Company should not be one of the industries upon which this country depends.

At any rate, Imasco could, in fact, arrange funding for the Macdonald Tobacco Company on the pretext that Macdonald's was going to do something else, was going to diversify its activity into some other area and--without actually doing that. And it seems to me that therein lies the . . .

MR. BOND: It is these types of concerns that led the Blenkarn Committee, the federal equivalent of this Standing Committee, to recommend a 30 per cent ownership limit be placed on non-financial corporations' control over financial institutions. And in fact they recommended, I believe, divestiture in the case of Imasco and Canada Trust.

MR. CALLAHAN: Are they not caught in a dilemma that even if they own--they are only entitled to own 30 per cent of Canada Trust, that if the mother company or the parent company is on its way out, that is going to depress at least the shares of everything and the financial institution is then caught in a very real conflict to survive

by making deals?

If I could carry it just one step further--and I would like to know about this--is there any concentration of U.S. ownership in financial institutions in Canada? And if there is, the danger I would see is that the U.S. parent can manipulate the interest rates here to avoid U.S. cash flowing out of the U.S. and devaluing their dollar.

MR. BOND: I do not think that is a concern. I do not believe U.S. interest in Canadian financial institutions is that high because of limits placed on, for example, ownership of banks.

MR. CALLAHAN: Well, they may not be directly U.S.-owned, but are they in fact owned through a subsidiary corporation . . .

MR. BOND: Most of them are Canadian family financial conglomerates.

MR. CHAIRMAN: Is there any legal reason, though? Is there any legal restraint on them?

MR. BOND: I believe that there are some . . .

MS STEPHENSON: Yes, yes.

MR. BOND: . . . there are restrictions.

MR. McFADDEN: There is a 10 per cent restriction.

MR. CHAIRMAN: On banks.

MR. McFADDEN: Banks have restrictions.

MR. BOND: Banks have massive restrictions.

MR. McFADDEN: . . . (inaudible).

MR. CHAIRMAN: That is what, federal, provincial?

MS STEPHENSON: Provincial laws.

MR. McFADDEN: And federal. So that the only way they could come in is under the Schedule B route, essentially, a Schedule B bank. They are limited to four branches.

MR. BOND: We probably have more--Canadians probably own more financial institutions in the United States than they own financial institutions here.

MR. CHAIRMAN: So that 10 per cent rule is effective then, obviously.

MS STEPHENSON: Thirty (30) per cent. I am sorry.

MR. FOULDS: I just have some other questions. Go ahead, though.

MS STEPHENSON: Okay.

The 30 per cent recommendation of the Blenkarn Committee has some attractiveness because indeed there would be grave difficulty, it would seem to me, in achieving the kind of self-dealing activity that some of them might want to be involved in, particularly if the rule of one--at least one-third of the board of directors were outside directors, yes. And I think that was also in the Blenkarn recommendations. There had to be--I am not sure that they specified the number, but there was a recommendation for outside directors on boards of directors as well.

MR. BOND: Yes, that is quite true.

MS STEPHENSON: But there has not been any wild enthusiasm for accepting that recommendation at the present time because, I guess, primarily, the trust companies have managed to ensure that their voice is fairly strong against that kind of limitation, since they consider themselves not banks.

But the thing that really bugs me is that they are not banks; they want to behave like banks but they do not want to be controlled like banks, or regulated like banks. And banks do not want to be trust companies but they want to have all of the freedoms that trust companies have, plus--do we need four pillars, or do we need two pillars, or do we need to have some rigid definitions, or do we need some clear guidelines for various kinds of institutions?

MR. BOND: I have heard it said that what the trust companies, what the financial conglomerates, what the banks, insurance industry is doing is, in a market that is not at the moment highly regulated, they are trying to move into as many different areas as they can: Toronto Dominion Bank and its Green Line service; Royal Trust is now offering securities at discount prices as well; trust companies owning insurance companies.

The Trilon financial corporation is a good example of a highly diversified financial supermarket. They have insurance with Wellington and--what is the other? London Life, I believe is the firm. London Life. And they have Royal LePage and Royal Trust Company and--they have the whole spectrum. And you have an example of insurance agents selling mutual funds of a trust company, and there is a lot of networking between them.

MS STEPHENSON: And the argument for that, of course, is that it provides better service to the--or a wider range of comprehensive services. . .

MR. BOND: A wider range.

MS STEPHENSON: . . . to the individual, without having to

become an expert as an individual . . .

MR. BOND: That is right.

MS STEPHENSON: . . . in determining where one should go. And it seems to me that what is necessary is a sort of HSO of financial activity; that is, there be some mechanism that the poor little uninformed individual who needs some financial advice and direction can go someplace which is totally independent, who will tell them that there is a place that they can go and there will be, in fact, the best service available in that area, in that place. But it is not necessarily in one three-level service hospital. It may be in one small unit somewhere which provides the best service in one area. But Trilon is trying to move everybody out of that into the--well, the supermarket concept is the one that is . . .

MR. BOND: It is very popular in the States.

MS STEPHENSON: Oh yes, but supermarkets are always popular in the States. Americans do not like to walk anywhere.

MR. FOULDS: But you do not necessarily get the best produce or the best meat at the supermarket.

MS STEPHENSON: Not necessarily.

MR. FOULDS: The point that I think you make is a very good one because I think one of the reasons that Canadians have this reputation as being savers and hoarders is, basically, a lot of Canadians with some disposable capital are not terribly sophisticated when it comes to financial dealings.

MS STEPHENSON: Very unsophisticated, yes.

MR. FOULDS: And having in most cases worked very hard to gain that capital, they do not want to run the danger, quite legitimately, of losing it. On the other hand, I think that given the kind of thing that you are talking about, that they would be quite willing to invest as long as they could be assured of some good, independent, relatively wise--as the world goes--advice.

MS STEPHENSON: Well, even if it were informed advice . . .

MR. FOULDS: Exactly. That is the very point.

MS STEPHENSON: . . . that was not dependent upon any one company or one institution or . . .

MR. FOULDS: Upon its self-interest.

MS STEPHENSON: . . . the only self-interest would be the ethical performance of a job being really well done . . .

MR. FOULDS: Yes.

MS STEPHENSON: . . . and gaining a reputation for doing that, which seems to me is the kind of direction we should be pursuing.

But how do you get there from where we are? That is . . . yes.

MR. FOULDS: Right. Yes.

I have a couple of other questions, if I could, at this point, David?

MR. BOND: M'hm.

MR. FOULDS: You mentioned that an argument will be put forward to us, and often has been put forward, that Canada needs large firms . . .

MR. BOND: M'hm.

MR. FOULDS: . . . to compete internationally. I think I understand the basis of that argument. What I would like to know is, by and large, who will be making those arguments to us?

MR. BOND: I think that most of the financial conglomerates who will appear before this committee will be making those arguments. I had a chance to look over the written brief that, for example, Hees International made to--gave to Mr. Cooke . . .

MR. FOULDS: Sorry, which firm?

MR. CHAIRMAN: Hees International. We invited them to come and they retained counsel to chat with me and convince me--perhaps unwisely, we will have to see--that Trilon will say everything that they had to say. And I temporarily excused them and they left a written brief with me, and that is what it was.

MR. BOND: Okay. It is interesting, even though it was Hees International presenting a written brief to Mr. Cooke excusing Hees International, the brief was actually written by Great Lakes Group.

MS STEPHENSON: What!

MR. FOULDS: That is maybe the very reason why they should appear!

And who makes the arguments--by and large, who are the players who would make the argument against that?

MR. BOND: Well, representatives of the different various unions, I think, organizing--trying to organize bank workers. And also I will try to balance it with whatever academic studies . . .

MS STEPHENSON: It is not just the unions. There are, in fact . . .

MR. BOND: Yes, consumer associations.

MS STEPHENSON: And not just consumer associations. There are relatively small financial institutions who are in communities or parts of the province, who have functioned effectively and honestly and diligently and who have no tremendous desire, I think, at this stage, to become over-large, who believe--and there are some members of the financial community who believe firmly that there should not be this kind of concentration, because they perceive that it may lead to dangerous situations as far as the populace, as far as the economy, as far as the individuals are concerned. But I am not sure that anybody can name them right off the--I can think of two people right now, but that is not necessarily going to be of very much help to us.

MR. FOULDS: David, you also indicated that because of the emphasis, particularly in financial institutions, that Canadians have traditionally put on stability, that there is an implied acceptance by government that therefore large financial institutions are not allowed to fail and that in a sense there is almost an unspoken safety net for large financial corporations that is not available . . .

MR. BOND: I think that is true.

MR. FOULDS: . . . to small business or other endeavours. Could you elaborate on that for us?

MR. BOND: The only thing that keeps our financial market going is confidence in the system. So once that confidence is challenged, the system could fall very quickly because it is all balanced precariously on just--on public confidence. And if a major bank or major trust company was to fail, the perception would be that others could also be in that situation. And as I say, everything depends on trust, public trust, and if it is not there the system cannot function and the whole system would collapse.

MR. FOULDS: But what I am puzzled about and what I would like to get an estimate from you . . .

MR. BOND: Right.

MR. FOULDS: . . . let us say--for example let us take the Bank of Montreal, which is one of the major banks, and for some reason it had outstanding international loans, which I understand the Bank of Montreal had in Brazil and in Mexico, as they all do. And my \$4,000 which I have in the Bank of Montreal, I and 100,000 other people like me across the country decided to take that out. Why would the government feel responsible if there seemed to be a run on that?

What I would like to get from you is, would other banks, because they have to save their reputation and the banking system's

reputation, also come in to help bail out another financial institution?

A SPEAKER: They did it.

MR. FOULDS: And in what circumstances? I would like to have David's answer.

MR. BOND: Sure. We have seen it on a smaller scale . . .

MR. FOULDS: Right.

MR. BOND: . . . with the Canadian Commercial Bank.

MR. FOULDS: Right.

MR. BOND: If that was ever to happen to the Bank of Montreal . . .

MR. FOULDS: All hell would break loose.

MR. BOND: . . . all hell would break loose. The confidence in the banking system would . . .

MS STEPHENSON: But it is not just with the great big ones either because we see--you saw this with the Greymac Crown Trust thing, when there was a real problem there and the trust institutions in Canada became very nervous that, indeed, unless there was a rescue of some sort by the institutions themselves or one of their group, that the confidence in those institutions would falter and, indeed, they would suffer. And there was a concerted effort on the part of a significant group of them to ensure that that did not happen.

MR. BOND: And if it was a large institution like the Bank of Montreal, I do not know whether even the whole system would have done. . .

MS STEPHENSON: Could do it.

MR. BOND: Could do it. Perhaps that is a good question to ask the Canadian Bankers' Association.

MR. CALLAHAN: It is not just the banking institution that gets into that predicament, it is the--even industries such as the efforts to assist Chrysler or Massey Ferguson, and all these other areas where normally the government winds up coming to the aid, whether for political reasons or what, but they do come to their aid. I think part of it is to keep the pieces together so they do not fall apart totally. I do not see that necessarily there is any difference between that and the financial institutions.

I think I have a more serious concern about the--rather than concentration, the myriad of small firms, in that the consumer really

has not got a clue what is going on. Like, you might be sitting in one trust company buying a GIC with some sort of glorious terms to it, and you look out the window and across the street they have got one with a half a point higher, and you put that transaction on hold, rush across the street, and you find that it has just been the way they do it. They have duped you. It is--the term is different or the front-end load is different, or whatever, you know.

So I have difficulty in believing that the greater number there are, the better off they will be. I think the greater number there are, the more strung out they are and the less likely they are all going to succeed in the marketplace.

MS STEPHENSON: There are some absolute necessities that have to be met first before you can establish one which should ensure some degree of stability, at any rate.

MR. McFADDEN: But, Bob, I think that is short-sighted in the sense that I think the one way is to look from the point of the depositor, protecting the widow who is putting her savings in the financial institutions. And whether the current arrangements under CDIC are adequate or not I do not know, although in general very few people, in terms of the average person, have been hurt by any collapse to date. Now, what we have got to try to ensure is no more collapse because we might have some trouble that the system might incur in dealing with it, because CIDC right now is financially embarrassed and it is going to need a few years to get its reserves back up.

What I think is of interest, David, and I do not know what you have got on this, is that as the number of financial institutions goes down and their ownership becomes concentrated, one of the areas that could be hurt would be job generation and the ability of businesses to secure financing.

One of the complaints if you talk to any medium or small business, no matter where they are in Ontario, they all complain about, you know, the fact that the banks do not really compete, that they are looking for money. . .

MS STEPHENSON: That is true.

MR. McFADDEN: . . .and one of the things, for a number of companies that I know of, that has been one of the advantages of the Schedule B banks. It has actually brought into the financial market some real competition for medium-sized companies. The Schedule B banks have been prepared to undercut, to do innovative ways of financing, and the banks in turn have gotten into doing the same thing. And it is interesting how when the banks are pushed, our banks here, they will actually innovate and then they will compete head-on-head.

Now, I know the trust companies want to do more--be able to move more aggressively into the commercial lending area as well.

But one of the things that concerns me is, as we concentrate

ownership tighter and tighter and there are fewer and fewer players, in general what seems to happen is the innovation drops off, the competitiveness drops off. And it is not just in terms of interest rates but it is in terms of the package of services, the flexibility area. Have you got any feel on that area?

MR. BOND: I think that is definitely one of the, you know, the downsides of that type of concentration.

MS STEPHENSON: But has it been documented?

MR. BOND: As far as I know it has not been, but I will check.

MS STEPHENSON: Because it is the sort of . . .

MR. BOND: I mean, it has been dealt with . . .

MS STEPHENSON: . . . general wisdom that that is the sort of thing that happens, and I would just like to see it documented if indeed that has happened. Surely there is some way in which that information should be available. Blenkarn did not really look at that.

MR. BOND: Not really.

So what we are talking about really is social, not the economic policy but the social implications of that.

MS STEPHENSON: But there is a social implication of all economic policy . . .

MR. BOND: Oh, definitely.

MS STEPHENSON: . . . particularly in banking.

MR. BOND: Yes, definitely.

MR. McFADDEN: I think an example of that has been, if you take a look--if the trust companies did not exist today, if we had put them out of business or not allowed them to go anywhere, I think the banks would probably have been open three hours a day and two days a week. You know, the fact is it has been the trust companies . . .

MS STEPHENSON: Monday and Friday.

MR. McFADDEN: No, I do not want to be unfair; I am exaggerating, but the fact is. . .

MR. CHAIRMAN: That is basically what Bob Callahan was alluding to this morning.

MR. McFADDEN: Because there is no competition. The fact is that it has been the trust companies who have gone out there aggressively, have opened early in the mornings, stayed open late at

night, they have been open on Saturdays . . .

MR. FOULDS: So have credit unions.

MR. McFADDEN: . . . and credit unions.

MS STEPHENSON: Credit unions.

MR. McFADDEN: And in addition to that, the trust companies, and to a very limited extent the credit unions, but the trust companies have played a role in financing things, mortgage financing and so on, that the banks either could not or would not take an interest in. It seems to me that we have already got proof over the last 20 years that by adding in a player like the trust companies into the consumer field, it has had a positive effect in general for services available to the consumer.

And I think it has probably had --it has also had an effect in terms, for example, of competition over various service charges. I have even talked to a couple of bank managers in the last two weeks who told me that they are embarrassed by the way their bank is putting in service charge after service charge the consumer does not know anything about. In general it has been the trust industry that has been attacking that and is tending to offer the consumer a better deal.

And so as you--while, Bob, I understand what you are saying, the hole-in-the-wall operation that is unstable certainly is not to the advantage of the consumer, it is certainly not to the advantage of the consumer to have everything concentrated in the hands of two or three groups, or four powerful chartered banks, or one or two in the trust field. It certainly is to the advantage of the consumer to have an array.

Now, I suppose if you add together all of the banks and all of the trust companies, that comes to quite a range of choice right now. The only thing that is starting to happen is that that array is now going steadily downhill. I do not know--is there any information available to us, for example, of the last--well, I guess the shake-out took place in the early '80s . . .

MS STEPHENSON: In '81.

MR. McFADDEN: . . . the number of consolidations in outlets, the number of operations that are still active? Now, we heard about the failures in Ontario this morning--well, in Canada they mentioned something like 20, and 7 or 8 in Ontario. I am just curious to know how many more have sort of gone away because of mergers? If you add up the ones that were collapsed, went into trusteeship, to the mergers and the consolidations, I would think it is a significant number. Go to the banking field: we have lost the CCB, Northland Bank, the Mercantile Bank have all gone, the Unity Bank disappeared. There may be others; those are the ones that just come to mind right now that at one time existed but now have gone, one way or the other,

some more quietly than others.

So I think that as that happens maybe what you wind up with is very strong institutions at the end, which is what we want, but at the same time I wonder if the consumer, number one, but secondly the small- or medium-sized businessperson who is looking for a competitive rate and looking for service is not potentially, in the long run--maybe not in the short run, but the long run--may find that there are not the same services and competition available.

MR. FOULDS: And also if we have any way of finding out how many outlets have dried up, because in small-town Ontario that would be the essence of being able to shop around for financial services.

MR. McFADDEN: I am sure the number of outlets have dropped everywhere.

MR. FOULDS: That would be fascinating.

Can I ask a couple of other questions that occurred to me? We all probably read about and encounter and have at least peripheral knowledge of the crisis, when a financial institution is in crisis. Are there any formal mechanisms to save a loan and trust company if it is in trouble? Are there any formal mechanisms to save a bank that is in trouble? Are there any formal mechanisms to save the depositors, aside from the \$60,000-figure insurance that we have . . .

MS STEPHENSON: You mean policy mechanisms that are set down on paper . . .

MR. FOULDS: Yes, either provincially or federally.

MS STEPHENSON: . . . for public consumption.

MR. BOND: That is something to ask the Ministry of Financial Institutions people and the--we have the federal people coming in as well, on October 1st, and some of these questions . . .

MR. FOULDS: Well, that question occurred to me this morning but it did seem to me that--he called it his "shop," and it did seem to operate a bit like a shop and I am not sure, I mean, how straight-lined and how fair . . .

MS STEPHENSON: When the reports arrived . . .

MR. FOULDS: Yes.

MS STEPHENSON: . . . they were perused, and if there were significant problems then the shop called to find out what was going on.

MR. FOULDS: Yes, but how do you judge a significant problem and when does the shop call?

MS STEPHENSON: Well, I would not know when to, I am sure, but I am sure there must be people within that division . . .

MR. FOULDS: Yes.

MS STEPHENSON: . . . who have some expertise in that area, who would question the figures which were presented to them which did not look as though a healthy situation were prevailing.

MR. CALLAHAN: Well, is that not part of the problem then, that there is a significant time lag, whether it is actual or simply perceived, between the time that a bank gets into trouble and the time something is done about it? I think without--I do not say this in a partisan way, I suppose it could happen to any government, but when the Northland, I guess it was, and the others were in trouble, I am sure information must have been available well before when it was acted upon.

MS STEPHENSON: Nineteen eighty-four (1984), as a matter of fact.

MR. CALLAHAN: Yes. Because I think a government's desire to deal with it when they see it happen is going to be tempered in some respects by the impact politically on it having happened. And, you know, that is frightening as well, is that there is that time lag. Maybe it is as a result of the mechanisms that are available for reporting. I think he said this morning that they report on a quarterly basis?

MR. FOULDS: No, that is in the new legislation, but presently they do not.

MR. CALLAHAN: Well, maybe by reporting on a quarterly basis they will now have a quicker idea of what is happening.

MS STEPHENSON: How often do banks have to report to the federal government, to the federal regulating agency? Monthly?

A SPEAKER FROM AUDIENCE: Even more frequently than that. It depends on what it is.

MS STEPHENSON: Even more frequently.

MR. CHAIRMAN: We are getting a little bit far afield. Thank you.

MR. FOULDS: Anyway, I wonder if we could take a look at those three questions that I raised and see what kind of formal mechanisms there are, if any, in those three situations.

MS STEPHENSON: I would hew to the idea that if there were a way to demonstrably increase the sense of responsibility of boards of directors of those institutions, and there were sufficient

external impact within those boards as well, as a result of appropriate choices, that we would not get to this stage very often. And we have not, on the whole. As a matter of fact, Canadian banks have functioned, really, pretty effectively.

MR. CALLAHAN: The banks have.

MS STEPHENSON: Yes, the banks have. And so have most of the trust companies. You know, most of the trust companies have not gone down the drain. There are one hundred operating in Canada--operating in Ontario at the present time; more than that, probably, in Canada--and a relatively small number have gone down the drain. It is just that it is so dramatic when it happens, and it has such a potentially damaging human effect when it happens, as well. And that is why, I think, most politicians are actually terrified of the idea that any financial institution will ever get into any difficulty. But on the whole, those boards have done a pretty good job.

How can we improve? How can we help them to improve their function? I think that is one of the things that we should be asking and one of the roles that we should be attempting to pursue. Because really it is primarily their function, not ours.

I have only been around here for 11 years, but I have to tell you, Robert, that not all the wisdom of the world resides in Queen's Park! Nor does it reside on Parliament Hill.

MR. CALLAHAN: I have only been here a year and a half and I have found that out.

MS STEPHENSON: Well, I found it out even before I got here, but it has been proved every day of the week since then. And we have got to rely on the capability of the people out there. Is there a way in which we can be helpful?

MR. FOULDS: On the other hand, when you do have a highly concentrated environment . . .

MS STEPHENSON: Oh, yes.

MR. FOULDS: . . . you obviously need to have the state, because it is the only agent available, provide some regulatory function to protect the consumer.

MS STEPHENSON: Then should we be finding ways to ensure that there is not a terribly highly concentrated environment?

MR. FOULDS: I do not know, but that is presumably what we are about.

MR. BOND: I have an interesting figure here, too: 50 per cent of insolvencies--near-insolvent and near-insolvencies in Canada since 1980 can be directly attributed to self-dealing. And the others would be attributable to things like an improper mix between

commercial and individual loans.

MS STEPHENSON: That demonstrates a lack of wisdom and a lack of the appropriate direction on the part of the board of directors. Now, how do we help them?

MR. FOULDS: Corporations can be as stupid as governments.

MS STEPHENSON: Not often!

MR. CALLAHAN: Is it necessarily the board of directors of the loan and trust company or the bank, or is it necessarily the . . .

MS STEPHENSON: The final responsibility rests . . .

MR. CALLAHAN: . . . the direction of the company, the parent company that perhaps owns and controls them?

MS STEPHENSON: But there are boards there as well, and I guess it is the self-dealing mechanism, the control of the self-dealing mechanism and the improvement of the board of directors which I would perceive. And obviously that is--I guess that is what the Ministry has looked at as well, as the best way to ensure that there is--but there has to be some way as well, it seems to me, that we can set some guidelines for the continuing force of concentration.

MR. BOND: The Ministry's main focus is on maintaining the solvency of the financial institution. I think they made the point this morning that they were not really concerned with concentration.

MS STEPHENSON: And they are not really concerned with the social impact, or necessarily with the economic impact . . .

MR. BOND: No, no. The solvency, yes.

MS STEPHENSON: . . . of ongoing concentration, no.

MR. BOND: The solvency of the financial institution itself was their principal concern.

MS STEPHENSON: Okay. So we have a job to do there.

MR. McFADDEN: Well, again, I would question whether it is their responsibility, looking at the economic impacts. I mean, I think their . . .

MS STEPHENSON: Nobody is suggesting that it is.

MR. McFADDEN: That is what I am saying, their job . . .

MR. FOULDS: It may be that we have a wider responsibility in terms of looking at other areas than . . .

MS STEPHENSON: That is right, than we have considered we had at this stage of the game. Or that there may have to be yet another mechanism to ensure that, indeed, that kind of responsibility is discharged appropriately on a regular basis.

MR. McFADDEN: You see, one of the problems I think that we are going to have is that the one aspect, though, of the Act that could create real problems in terms of ever allowing for any competition to build up are these capital requirements.

Now, if you look at a start-up capital of \$10 million--if you want to go on to commercial lending, \$15 million--you know, you have gone up 10 times. You have gone from \$1 million to \$10 million. Well, you tell me how many new groups are going to show up, certainly anywhere other than in a major metropolitan area, with \$10 million of equity. And that is money, and it cannot be liened, it cannot be lienable, it has to be cash. You know, I--perhaps one thing that could be considered is whether in fact that \$10 million threshold is too high. Maybe that is what we have to do to maintain, as they have talked about, the integrity of the institutions.

And maybe, you know--and I do not think that we should necessarily meddle in all the work that they have done with all these committees and everything else, but there is no doubt about it that that threshold is going to make it very, very difficult for new players ever to come into this. I mean, there will be some, undoubtedly, but it is almost hard to visualize that many Canadian groups will be interested.

MR. CALLAHAN: That would encourage concentration.

MR. McFADDEN: That would tend to. Yes, that would tend to. It would just tend to keep the status quo the way it is with very little change.

Now, I do not know if there are other types of financial institutions that could be more intermediate that could be encouraged, but I think that is one thing that would be worth looking at, is the threshold levels of people entering. Because if we pull up the drawbridge that far, I just question how many new people will ever happen. Certainly the idea of regional companies opening up--well, a company like Victoria & Grey probably would never have opened, would never have started.

MR. CALLAHAN: Maybe there should be a staging of that threshold so, let us say, over the first five or ten years of operation that you would have to reach that threshold. And that would ensure that the--well, you could monitor them much more closely, too.

MS STEPHENSON: If they reach the threshold, then the opportunities available to them would be expanded. But you are not going to say that if they do not reach the threshold they are going to have to close down at the end of the period of time. No.

MR. CALLAHAN: Oh no, no. No, but I think that is well said, that the opportunity is open to them and that the breadth. . .

MS STEPHENSON: Would vary with that . . .

MR. CALLAHAN: . . . would vary with that sort of reaching the threshold.

I mean, that in a sense also puts a carrot there for them to succeed because at the end of that they are going to have a much larger area within which they can operate.

MR. McFADDEN: Dare I say it, but you know, it may be . . .

MS STEPHENSON: Yes, do go ahead.

MR. McFADDEN: . . . that we may want to get foreign or other money in, at least in part, to encourage competition and new money into the field. Now, we have done that with the Schedule B banks and they have had some effect on adding competition to the banking business.

MR. CALLAHAN: The trouble with the foreign banks, David, is that you are allowing foreign capital to be brought in here from, perhaps, countries where the stability of the political system is such that you might be inviting collapse by the government--pulling out, because of conditions in a particular government.

MS STEPHENSON: The attitude in the federal government as far as foreign banks is concerned has never been that generous. They really . . .

MR. BOND: They are not. . . really they are commercial lending institutions. So. . .

MS STEPHENSON: Lending institutions. But they really are not--they have never, ever opened the door and said, you know, "Everybody come on in."

MR. BOND: Yes, they do not encourage--it is not really something that is encouraged. They are after the commercial lending market.

MR. CHAIRMAN: Is that because of them or because of our federal government?

MR. BOND: Because of restrictions placed on foreign banks operating in the country.

MS STEPHENSON: There really are not an awful lot of foreign banks in here from countries that tend to have labile

governments, or volatile governments. They tend to be from fairly stable--very stable jurisdictions, as a matter of fact.

MR. CALLAHAN: Well, I was just saying in terms of opening it up that that might be a concern . . .

MS STEPHENSON: Yes.

MR. CALLAHAN: . . . that the capital that would be injected here might be withdrawn because of their balance of payments or their debt. Let us say Mexico, for instance, if they were to open a bank here . . .

MR. BOND: They have banks here.

MR. CALLAHAN: Oh, they have banks here? Well, I would be very concerned because they are in a very fragile economic--not only that, but a political climate that is such that they might be required to withdraw it.

MR. McFADDEN: They would have to sell to somebody. They could not get it out of the bank. They could not get it out from a regulatory point of view.

MS STEPHENSON: I think that in Canada you would probably have more difficulty battling the ultra-conservatism of the admission of foreign financial institutions than you would have battling the opposite end of the scale.

MR. CALLAHAN: I am surprised there has never been a move by places like the United States, the Bahamas, and so on, that have all got branches of our banking system for a similar thing they used to have in the airline industry, that you had a bifateral agreement: you did not get one down there unless they got one up here. I am surprised that has never happened.

MS STEPHENSON: It is not quite that way.

MR. CHAIRMAN: Where is that conservatism coming from?

MS STEPHENSON: It is traditional within the Canadian attitude towards the structure of the financial institutions that tend to support our economy. We have never been . . .

MR. BOND: We do not have a freewheeling . . .

MS STEPHENSON: No, no. We do not give away radios every time you deposit \$1,000 in a bank, for heaven's sake, and we do not have the kinds of American grab-bags that seem to appeal very well down there. That is just not done. It has never been done. Is it because our banks have had a somewhat British model from which to draw, you know, where everybody wore a frock coat and striped trousers and a bowler hat in order to get into the building in the first place? There are times when the mental attitude sort of matches the

sartorial splendour of some of the British . . .

MR. CALLAHAN: Some of them wear Jimmy Carter and Reagan masks when they go in!

MR. FOULDS: I would not malign the British banking system.

MS STEPHENSON: I am not maligning the British banking system, I am saying that perhaps it was that example that gave this country the kind of attitude that it has towards financial institutions generally.

MR. FOULDS: We are still in the 19th century in terms of attitudes, whereas they have moved on to the 20th.

MS STEPHENSON: Britain has moved on a little, yes.

MR. FOULDS: You are darned right they have. With computerization and new technology, British banks are probably far ahead of most North American banks.

MR. CALLAHAN: That raises, if I could, a supplementary on this computerization. That introduces an entirely new picture with this computer banking, where they are having on-line banking so that you can go to one machine and hit every bank and trust company. That will eventually be the result. What effect does that have on--right now, on the whole issue? Pretty soon you are really going to be dealing with a machine that will be open 24 hours a day and will access you to almost any financial institution you choose.

MS STEPHENSON: In a limited fashion.

MR. CHAIRMAN: What effect will it have? It will be more efficient, I suppose.

MR. CALLAHAN: It may be more efficient, but has that been considered in terms of Bill 116 as to the--maybe that is taking it a little too far afield, but I think it is planning for the future as opposed to planning just for what is up now. I would be very interested in--if we are not already going to have someone from the banking community and perhaps from the trust community tell us first of all what is the final result, as they see it, now going to be with reference to that type of computerized banking, and maybe what impact that will have on the concentration, the inner workings of trust companies and banks. I do not know.

MR. CHAIRMAN: Is there someone that we could ask that? Or perhaps we already have some witnesses that could help us.

MR. BOND: We could answer that question, I am sure.

MS STEPHENSON: The flexibility which that technology provides should not necessarily encourage greater corporate

concentration within financial institutions.

MR. BOND: I would not think it would be . . .

MS STEPHENSON: In fact it could--it might work in the opposite direction. And I guess what concerns us all are those kinds of safeguards that can be built into the technology to ensure that there is not a great deal of highway robbery that occurs as a result of someone knowing more about the technology than someone else.

But there are impacts of that technology which are going to be important to the individual depositors, which may in fact have some--which may increase my concern about whether that individual depositor really knows enough about the financial institutions to deal with it effectively.

And I guess, you know, is that a responsibility of the financial institutions, to start providing the educational program which will ensure that that--or whose responsibility is it to ensure that the guy who carries a lunch pail is going to have access to the services which he needs and knows which are the best to use for his purposes?

MR. BOND: Just an interesting aside, the whole computerization of the banking industry and the use of bank machines. We talk about whether or not a large corporation brings with it benefits like innovation. It is interesting to note that it was the credit unions that first introduced bank machines into Canada, not the banks themselves.

MR. CALLAHAN: Were they before VISA and Mastercard?

MR. BOND: I believe so.

MR. CALLAHAN: The implications here--I do not want to go too far afield, but the implications of VISA and Mastercard and these other cards are that--for example, you go into Simpson's . . .

MS STEPHENSON: A cashless society.

MR. CALLAHAN: If you go into Simpson's you can use VISA and Mastercard and you might pay, whatever, 16 or 17 per cent interest, I guess, if you do not pay your account within 30 days, whereas Simpson's, if you run an account with them and you do not pay, it is 28 per cent per month.

MS STEPHENSON: Well, the rule to follow is pay your bloody account, and then you do not have to worry about it.

MR. CALLAHAN: No, no, but the point I was trying to make, Bette, was that. . .

A SPEAKER: That is monetary rates, 28 per cent per annum.

MS STEPHENSON: Yes.

MR. CALLAHAN: But the implications--the reason I raised it, the implications of that is that the banks really are--and I suppose the trust companies at some point are really getting involved in the operation of other types of business, and competing with them, without actually having a--you know, buying control of them, they are just--they are controlling in the . . .

MS STEPHENSON: Would Simpson's be happier not to have to have their own credit cards and to use the bank's credit cards?

MR. CHAIRMAN: Probably would.

MS STEPHENSON: That would actually lessen their staff responsibility, the numbers of people that they would have to hire, because indeed all of that would be . . .

MR. CHAIRMAN: David says they like having their own cards.

MS STEPHENSON: Do they?

MR. BOND: Oh yes. They stand by the elevators selling them.

MR. CALLAHAN: Sure, because if they are getting 28 per cent. . .

MR. CHAIRMAN: I guess so. Eaton's for the longest time would not take anything else.

MR. CALLAHAN: No, none of them would.

MS STEPHENSON: Do they now?

MR. CHAIRMAN: They do now.

MR. CALLAHAN: Even Canadian Tire--that is actually how they. . .

MR. CHAIRMAN: They eventually had to. I for a long time did even shop at Eaton's because I did not have a card.

MR. CALLAHAN: That is right. And that is actually how they have gotten into a much larger field of operation.

MS STEPHENSON: I would like you to know that 40 years ago when no credit organization would give any female credit, Eaton's gave me credit and they gave me a credit card, and I have always had my own credit card in my own name and they loaned me--mind you, the only time I ever borrowed money was from Eaton's Financial Services, which was nothing at that point. And because I have never

borrowed any money, if I try to get a mortgage right now the banks want my blood in a bucket in order to give me money, because I do not have any credit rating, except I always pay my bills.

MR. BOND: If you pay your bills you do not establish a credit rating.

MS STEPHENSON: That is right.

MR. CALLAHAN: That is not a good idea.

MS STEPHENSON: That is right, yes. And as I said, it was 40 years ago that I borrowed money last time. I have never borrowed it since then.

MR. CALLAHAN: Well, they gave advice at university one time that we should go out immediately upon graduation and borrow \$5,000 and pay it back the next day. Then you suddenly become "A".

MS STEPHENSON: But I did that; I borrowed the money for a car and paid it back within a year.

MR. CALLAHAN: Well, you should have had a credit rating then.

MS STEPHENSON: But that was 40 years ago.

MR. CHAIRMAN: Well, maybe we should drop it, unless you have something else?

MR. FOULDS: I was just going to say that since the meeting has degenerated into our own financial difficulties in one way or another. . .

MR. CHAIRMAN: I think you are right. I think it may have been a very difficult meeting, particularly for Hansard to handle, but for us it has been a really valuable, freewheeling discussion that I think probably for the first time has allowed us to impress upon ourselves what the problems are that we are investigating.

And I thank you very much, David, for opening some of these cans of worms and letting us feel around inside. And I will see you all tomorrow.

The committee adjourned at 3:40 p.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

WEDNESDAY, SEPTEMBER 17, 1986

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Stephenson, B. M. (York Mills PC)

Ward, C. C. (Wentworth North L)

Substitution:

Callahan, R. V. (Brampton L) for Mr. Ward

Also taking part:

Morin-Strom, K. (Sault Ste. Marie NDP)

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

ERRATUM:

Mr. McKenzie should be Mr. Mackenzie throughout this issue.

The committee commenced at 10:10 a.m. in committee room 2.

MR. CHAIRMAN: I imagine you are wondering why I asked you to come here this morning. I imagine some of you thought it was because you were going to hear from a representative of the Canadian Labour Congress. Mr. Ortlieb telephoned at 9:47 this morning to indicate he was ill and unable to make it, and that no one else apparently could come in his place, nor is there a written brief available. Surely he knew he was sick before 9:47. . .

MR. McKENZIE: Well, apparently a few months ago he had a series of minor heart--I do not know if real attacks or problems--but he is the key guy in that area, I know, at the moment. Whether something has happened, I do not know.

MR. CHAIRMAN: So at the moment we have not rescheduled that. We can talk about a few housekeeping things for a couple of moments, but I do not have anything else on the agenda today or, for that matter, for tomorrow.

MR. ASHE: Did you say anything fell into place, Mr. Chairman, for tomorrow, or it is still blank tomorrow?

MR. CHAIRMAN: No . . .

MS STEPHENSON: That is too much to hope, that with such short notice we would get. . .

MR. CHAIRMAN: We have made contact with the Insurance Bureau of Canada, and they have not really responded yet in a very positive way, but I guess the President is going to talk to the Chairman of the Board. I think their concern is they do not have a position on corporate concentration. I suppose we are less interested in a position . . .

MS STEPHENSON: Than we are in their experience.

MR. CHAIRMAN: . . . in experience, yes. We have to continue to try and get that across . . .

MS STEPHENSON: Is that not really what we should be telling all of them? Because I am sure that is one of the reasons they are reluctant--many of them are reluctant to say yes immediately.

THE CLERK: I do explain, and we send a copy of the memo prepared by the Committee on what we are doing, and if they have any further specific questions then I give them David's number--either the Chairman or David Bond--and they do contact them for more specific information. So to me, my impression is they seem to be afraid to appear.

To bring you up to date, for instance, I called yesterday the credit unions. I spoke to a Mr. Atkinson, and he was again hesitant and wanted more information, which--I passed the name along to

David's researcher, and he did not call him; I do not know the reason why. But I assured him that we were not here to crucify them in any way, but merely for them to express to us their concern and their position in this . . .

MS STEPHENSON: But not necessarily their position, this is the point. It is the kind of experience which they have had within their own field that we really need to know about, because obviously, although they may have developed positions, we are not as concerned about their positions as we are about what ours is going to be after we have heard all of the information.

THE CLERK: I think that I can safely say that he expressed a concern, and his concern was that he sees some seriousness in the small credit unions becoming large. And he felt that he could come before the Committee and express that view. I think that is quite correct.

MR. CHAIRMAN: Mr. Foulds?

MR. FOULDS: I was just wondering if we could, then, go over the schedule and see what we have actually nailed down and how firm that is.

MR. CHAIRMAN: On the other hand, very much on the other hand, we received a telephone call from the Deputy Minister of Industry, Trade and Technology, who asked to if they could be invited, and I indicated they could, and we tentatively scheduled that for the 6th of October.

Maybe Franco could just go through the agenda we had yesterday--we were handed yesterday. There has been some changes already in that.

THE CLERK: On September the 23rd, those three individuals will appear . . .

MR. ASHE: Is there no change until the 23rd from what we got yesterday?

THE CLERK: No . . .

MR. ASHE: So there is nothing for the rest of this week.

THE CLERK: There is nothing for the rest of the week.

MR. FOULDS: Okay, so the 23rd, next Tuesday, we have Royal Trust . . .

THE CLERK: Toronto Stock Exchange and Ontario Securities Commission.

MR. FOULDS: Okay. And those are firm?

THE CLERK: Yes, they are.

MR. CHAIRMAN: Anybody with any comment on the amount of time we have allotted, please mention it now. On the amount of time we have allotted to various witness.

MR. FOULDS: In the morning hearings we sit till 12:30, is that correct?

MR. CHAIRMAN: Yes.

MR. FOULDS: And then in the afternoons till 4:00, or 4:30?

MR. CHAIRMAN: Yes, 4:00 to--let us say 4:30.

MR. FOULDS: If necessary.

MR. CHAIRMAN: Yes.

THE CLERK: If necessary.

A SPEAKER: But not today or tomorrow.

MR. CHAIRMAN: Not today, no.

MR. ASHE: Today it will not count. Ten-thirty, maybe.

THE CLERK: On Wednesday, the 24th, they both confirmed and we are double-checking it again. We usually call them the day before, just in case something has come up.

MR. CHAIRMAN: Did that happen yesterday with the Labour Congress?

THE CLERK: We called the secretary and there was no response. As far as she knew--as far as the secretary knew, everything was go for today, but unfortunately . . .

MR. CHAIRMAN: I think we must give them the benefit of the doubt . . .

MS STEPHENSON: I guess the thing that surprises me is that--the only thing I am surprised about is that there is not anyone that he could fall back on as far as the . . .

MR. McKENZIE: He has been totally in charge. I imagine his connections, more than anything else, are with the whole bank and the organizational efforts of the VISA and the banks, and he has had sole responsibility for that from the Congress level and has run into a lot of problems.

MR. CHAIRMAN: Well, it probably is wise, then, that he did not try and send a brief, and we can try and reschedule him . . .

MS STEPHENSON: Yes . . .

MR. CHAIRMAN: . . . at the earliest time that he is able to come.

MS STEPHENSON: We might do better on the 25th. . .

MR. McKENZIE: The clerk can get hold of him but I will also call him.

MR. CHAIRMAN: On the 23rd and 26th, the NDP have a caucus . . .

MS STEPHENSON: Oh, right, yes . . .

MR. CHAIRMAN: That does not mean we could not do something on the 22nd, or the Friday, for that matter . . .

MR. McKENZIE: Well, the 25th is still open--no, the 25th is not, I am sorry. The 22nd and 23rd are open--the 23rd and 24th are open . . .

MR. CHAIRMAN: Or the afternoon of the 24th, yes.

MR. FOULDS: I think it would be a mistake to try to put something on the 22nd now, considering the history . . .

THE CLERK: Yes . . .

MR. FOULDS: . . . and if we are going to get people we want to give them, I think, enough time to prepare good material for us so that . . .

THE CLERK: If I may clarify, these dates and times were specifically asked for by the individual . . .

MR. FOULDS: Oh, good.

THE CLERK: . . . so that when there is a date here, they requested it.

MS STEPHENSON: Well, what about the Tuesday the 30th, then, for . . .

MR. CHAIRMAN: In the afternoon?

MS STEPHENSON: . . . in the afternoon, for CLC?

THE CLERK: I can request, or suggest that date.

MR. BARLOW: Excuse me, we are not going to be sitting on the 25th, is that right?

MR. FOULDS: Yes, it is in Thunder Bay, so we have to be there.

MR. BARLOW: Are we meeting in Mickey's riding or yours?

MR. FOULDS: It is actually in Mickey's riding. When Mickey steps down, we figure we have got a chance at a seat next time!

MR. CHAIRMAN: All right, there is no problem with . . .

THE CLERK: It is free, then.

MR. CHAIRMAN: It is free time. The 1st of October is looking fine. The 2nd of October--you have moved the Trilon.

MR. FOULDS: Okay, on the 20th to the 30th, so far we only have the one . . .

MR. CHAIRMAN: Mr. Carrozza has the floor.

THE CLERK: If I could clarify, I spoke to a Ms Zera, from Royal LePage, who is handling the government relations for Trilon. Initially they had agreed to change their time so that the Committee could go and see Diane Francis, but unfortunately . . .

MR. CHAIRMAN: What date are we talking about?

THE CLERK: October the 2nd . . .

MR. CHAIRMAN: Okay, what has happened to the 30th of September?

MS STEPHENSON: Nothing.

THE CLERK: Nothing.

MR. CHAIRMAN: We have got the afternoon free. We can put somebody in there.

All right.

MR. FOULDS: The 1st of October, all three of those are confirmed and okay?

THE CLERK: They are confirmed.

MR. FOULDS: Okay. Okay, I have caught up to you.

THE CLERK: October the 1st, the first two are confirmed.

Now, the Committee requested that I speak to the Trilon people. I did. Initially they were . . .

MS STEPHENSON: That is October the 2nd?

THE CLERK: Yes, October the 2nd . . .

MS STEPHENSON: Okay.

THE CLERK: . . . they were receptive to it, but on double-checking with their people who were appearing, they had scheduled other things and I suggested that if it could be--we wanted to speak to them, really speak to them--perhaps 4:00 o'clock of the same day, so that the Committee could go to hear Ms Francis. And they will try to . . .

MR. CHAIRMAN: So that is the day they want to speak then, the 2nd?

THE CLERK: Yes.

MR. McFADDEN: Could I make a suggestion . . .

MR. CHAIRMAN: Yes . . .

MR. McFADDEN: . . . on the Diane Francis thing?

I am not opposed to our visiting the Empire Club to listen to her speak. I would wonder, though, if it would not be more productive from this Committee's point of view to invite her to come here. Now I do not know if we could tempt her to do that.

THE CLERK: I spoke to her office and she is across the country promoting her book and will not be back until the end of October. And I was given the name of, I imagine it would be her manager or publisher, I am not sure, Carmel Schaffer, and I could not get ahold of him yesterday but I will try today and see if something can be worked out.

MR. CHAIRMAN: For instance, the morning of Friday, the 3rd, if she is going to be here--Mr. Ferraro.

MR. FERRARO: Might I bring to the Committee's attention a conversation I had with Pat Laval yesterday, and I do not know if you have already discussed it . . .

THE CLERK: Yes, we have that . . .

MR. FERRARO: Is he coming down? Because he would like to make a presentation to the Committee as well.

MR. CHAIRMAN: We have tentatively scheduled him for the morning of October 6th.

MR. FERRARO: Very good.

MR. CHAIRMAN: So he can have the last word, if it is the

last word.

Ms Stephenson?

MS STEPHENSON: If Trilon cannot reschedule their group to 4:00 o'clock--I do not want to miss that because I want to hear what excuses they have . . .

THE CLERK: They do not wish to miss it; they are very concerned and would like to be here, and they will try to arrange it as best as they can. The unfortunate part was that they had scheduled that time to be here . . .

MR. BOND: We could always move it to 2:30 and then the other presentation at 3:30.

MS STEPHENSON: Why not? That is . . .

THE CLERK: I certainly will try that.

MS STEPHENSON: I tell you, the major problem you are going to have is getting down there, because--I have a horrible suspicion you are going to miss lunch. But that is all right.

MR. CHAIRMAN: That is really--the Food and Commercial Worker's Union is a bigger impediment.

MS STEPHENSON: Yes, at 11:30, that is--because you really are going to want to talk to them.

MR. CHAIRMAN: Have we talked to them?

THE CLERK: No, not at the moment; I have not talked to them.

MS STEPHENSON: Do you suppose there is a possibility they might come in earlier?

THE CLERK: I shall certainly speak to them.

MR. McFADDEN: I find it a bit bizarre that a Legislative Committee is sitting here agonizing about how to get to lunch at the Empire Club!

MR. ASHE: There is a rumour going around that you are buying!

MR. McFADDEN: Here is a solution right here: if we could just get a video tape of her presentation . . .

MS STEPHENSON: That's right, by CJRT.

MR. CHAIRMAN: That is right.

MS STEPHENSON: We would have no problems.

MR. McFADDEN: I think we are just getting ourselves all tangled up . . .

MS STEPHENSON: I think we should just leave it . . .

MR. McFADDEN: . . . leave it. We have got Trilon; I do not think we should go rushing out and try to get back . . .

MR. FOULDS: May I second Mr. McFadden's suggestion? We get a video tape and . . .

MR. CHAIRMAN: We will ask Mr. Carrozza to try and get a video tape and we can watch it at our pleasure. I am sure Rogers would be happy to provide it.

MR. McFADDEN: The Empire Club doesn't know what they missed!

THE CLERK: I have some further information. The Committee requested that I speak to Merrill Lynch. The gentleman that would be speaking to us, unfortunately, he will not be available. He is coming back in mid-October, and he is the only that is in charge specifically of this issue.

MR. ASHE: It is a big subject for one person.

MR. McFADDEN: Either that, or it is a smaller subject than we thought!

MS STEPHENSON: Anything about the CLC?

THE CLERK: No, not yet. We are trying to get them in on the 30th.

MR. CHAIRMAN: It would be better if we could get them earlier.

MS STEPHENSON: On the 30th? But you already had booked someone for the 6th of October?

THE CLERK: Yes, it is the Deputy Minister of Industry, Trade--Pat Laval.

MS STEPHENSON: Ah, MITT.

MR. McKENZIE: What dates are you suggesting in terms of--providing that we can get Ortlieb from the CLC?

THE CLERK: The 30th, in the afternoon, at 2:00 o'clock.

MR. McKENZIE: Okay.

THE CLERK: We are going to be using the week we scheduled for making the report. And any time after that we could be--the week of October the 6th.

MR. McKENZIE: It could be the beginning of the week of October 6th, if necesasary.

THE CLERK: That is correct.

MR. McFADDEN: I do not know how many days this report is going to take to write, since we do not really know what we are going to say, so . . .

MR. CHAIRMAN: No, I am not worried about . . .

MR. McKENZIE: I think it is going to be short!

MR. McFADDEN: Maybe we should use the 6th and the 7th, if we can get some useful witnesses to come. Otherwise . . .

MR. CHAIRMAN: Well, Mr. Laval would actually prefer the 7th, but I kind of pushed him into the 6th because of the way our schedule is now. Is it all right to say the 7th to him?

MS STEPHENSON: Sure, why not?

MR. FOULDS: As you know, Mr. Chairman, from our conversation, if we are doing actual writing of a serious report on the 8th and the 9th, I have a serious problem because I have to be on the Public Accounts Committee on those two days for UTDC.

MR. CHAIRMAN: That is why we are writing the report on the 8th and the 9th.

MR. FOULDS: Then you will have a serious problem because I will come in and want to rewrite it.

MR. CHAIRMAN: I was just kidding.

MS STEPHENSON: If indeed a significant representation of individuals who we--or groups that we probably should hear from are not going to be available until after the date that you have suggested you are going to write the report, I am wondering what it is we are going to write?

MR. FOULDS: Yes, exactly. I suspect we might make better use of that week to schedule . . .

MS STEPHENSON: To hear people.

MR. FOULDS: . . . to hear people, I would agree.

MS STEPHENSON: And ask for some dispensation related to the time that you have scheduled.

MR. CHAIRMAN: We have, of course, the mornings of the 16th, 23rd and 30th also available . . .

MS STEPHENSON: Yes . . .

MR. CHAIRMAN: . . . before the end of October . . .

MS STEPHENSON: Yes, and that does not include the possible use of the Friday as well, does it?

MR. CHAIRMAN: Yes, we could sit Fridays and in fact we could all lobby our whips for more sitting time before it is written in stone and the House opens, for that matter.

MR. McFADDEN: Well, it seems to me that there is such a plethora of studies and committees who have looked at it, this Committee could lose any credibility it might have, permanently, if it were really to do a terrible job . . .

MS STEPHENSON: That is right.

MR. McFADDEN: . . . on its research at this point, you know, and then come out with a report that is really completely out of it, mainly because we do not have enough background knowledge and have not done an adequate canvass of knowledgeable opinion in the area. Given the fact that Senate committees, Commons committees, other legislative committees and white papers and task forces have looked at this, I for one would be very reluctant to get in a situation where a Legislative Committee of this House came out with a report that would be regarded as--I hate to use the word, but half-assed or . . .

MR. FOULDS: Half-baked is the phrase you are want. . .

MR. McFADDEN: Half-baked. It would it be better to have no report and just say it requires further study, than to come out with an irrelevant or poorly done report . . .

MR. FOULDS: I agree.

MR. McFADDEN: . . . and consequently I think the week of October the 6th should be used, if at all possible, to have additional witnesses so that we feel a lot more comfortable in what we are doing.

Now, after we have met with the group of witnesses we have now got scheduled, my concern might be that it may leave more questions than answers. My experience with the Select Committee, which of course went on at some length, was that as we got into it we thought of more and more things we wanted to look at.

Now, unless this subject turns out to be very narrow and very focused, we may well, by the time we head towards the end of next week or the week following, have thought of a lot more people it

would be worthwhile talking to; maybe that will not be the case. So I certainly think we are going to need the week of October the 6th available to us.

As for the period of time when the House goes back, I guess we are stuck with half-days at the very best, on Thursday mornings, from then on, unless there is a delay in calling back the House. I do not know if there is any indication of any delay . . .

MS STEPHENSON: It looks like the 14th . . .

MR. McFADDEN: It is still scheduled, is it? All right. I was just looking at the Chamber; it is still under extensive renovation, but I presume they will be up and running. So I would wonder if the Chamber itself might be ready, but even if it is it would still leave us, what, three Thursdays. We would probably have a hard time achieving the objective of getting the report printed in the House by the 30th or the 31st of October, but it is not impossible, I suppose, if we kept it--it does not have to be bound and done in any particularly elegant fashion.

MS STEPHENSON: We could get them Xeroxed.

MR. McFADDEN: I am not so sure that the legislature itself would be scandalized if we were a week or two late. I have not heard that other members of the House were that anxious.

MS STEPHENSON: Well, it would seem to me that that would be sensible, because it is increasingly obvious that if we are going to produce anything that is worthwhile, since we are not going to be able to hear some of the people that we really feel we should hear within the timeframe, that we have to provide for some kind of flexibility in this.

MR. CHAIRMAN: Mr. Ferraro?

MR. FERRARO: Thank you, Mr. Chairman.

Mr. Chairman, I just want to echo what David has said and personally apologize to the Committee if they have already discussed this, but have we made arrangements, or are we inclined to invite somebody from the CDIC and/or some federal perspective, either out of Barbara MacDougall's office, or . . .

MR. CHAIRMAN: We have the Federal Ministry of Consumer and Corporate Relations scheduled.

MR. FERRARO: Well, the paragon of stability, to some degree, outside of the government is CDIC, and it appears to me you may want to get somebody to come and speak to us . . .

A SPEAKER: Who is CDIC?

MR. FERRARO: It is Canada Deposit Insurance Corporation.

A SPEAKER: Oh.

MS STEPHENSON: Its role is--well, it is a limited role. An important one, there is no doubt about that, and it certainly might add to the perspective.

MR. FERRARO: We could get some facts and figures too, I think, Bette, or even ask them for a submission.

MS STEPHENSON: Yes, yes. Facts and figures should not be too difficult.

MR. FERRARO: Well, how stretched are we, from an insurance standpoint? Has it got worse? Or is it better?

MR. CHAIRMAN: Insofar as hearing from the insurance people?

MS STEPHENSON: No, from CDIC. . .

MR. CHAIRMAN: We have not talked to CDIC, so it sounds like a good idea, especially if they can give us some specific figures .

MS STEPHENSON: . . .which relates specifically to institutional frameworks in that role.

MR. FERRARO: Well, that is the crutch that 90 per cent of the consumers depend on, really.

MR. McFADDEN: Well, their submission as I would understand it could only relate to their responsibility, which is insuring deposits.

MS STEPHENSON: Yes, that is right.

MR. McFADDEN: It would not deal with corporate concentration.

THE CHAIRMAN: No. We could get facts and figures, however.

MS STEPHENSON: The result of that might in fact demonstrate that corporate concentration might serve depositors much better than . . .

MR. CHAIRMAN: Fair enough.

Mr. Haggerty?

MR. HAGGERTY: I have a suggestion. Has anybody been invited from the automobile sectors in Ontario, particularly General Motors, Ford Motor Company, the American Motors Company? You know, the mergers now with Japanese firms and that, you know. We

should be taking a good close look to see what direction, because we are gearing ourselves up in Ontario for a one-industry business again and if we get a downfall in it you are going to see serious consequences in Ontario in regards to employment. The question is: why can't we get, you know, 2.9 per cent interest on cars here? The same buyers. . .

MR. FERRARO: Come to Guelph, and you can get it.

MR. HAGGERTY: I am just saying, you know, this is an area that we should be taking a good look at. I mean, you know, when you are gearing your industry up in Ontario more so for the automobile sector than anything, it reminds me just like the nickel industry in the Province of Ontario where everything was geared to that and all of a sudden the market fell out of it and it was gone, you know.

MR. CHAIRMAN: So you would suggest that we ask General Motors . . .

MR. HAGGERTY: Sure, and see . . .

MR. FOULDS: Mr. Chairman, on a point of order.

We had this argument six weeks ago and resolved the Committee to look at financial institutions, over some reluctance expressed by me and this party, because that was the wish expressed by the Liberal and the Conservative members of this Committee. And I made a very strong argument, as you will recall, Mr. Chairman, that we should look at resource industry. And the agreement, as I understood it, by motion, was that we would look at financial institutions and then the resource industry. And so I think inviting General Motors at this point is a mistake, and irrelevant to our particular inquiry.

MR. HAGGERTY: Well, it . . .

MR. FOULDS: The question that Mr. Haggerty raises is a very important one and very crucial to the economy of this province, but it is not one that this Committee decided to look at in the next little while.

MR. CHAIRMAN: Mr. Haggerty?

MR. HAGGERTY: But the point is you are having a hard time getting witnesses to come before the Committee now. I mean, there is days that you are going to be sitting there doing--well, I should not say nothing--but there is days you are going to have to cancel meetings. And I am just saying that, you know . . .

MR. FOULDS: It will not help the focus of the Committee to be looking at different sectors during . . .

MR. HAGGERTY: If you . . .

MR. ASHE: Mr. Chairman, could we get back to the subject at hand?

MR. CHAIRMAN: Just a minute. Ray certainly may, if he wishes, raise the issue again; that is all he has done. It is probably out of order to invite GM in view of the motion that was passed, but a new motion certainly could be raised to--which I think is basically what Mr. Haggerty is saying--that we could fill the time, I suppose, by looking at other corporate concentrations.

MR. HAGGERTY: Because really, we are not setting down--following the principles set down by the Treasurer to look at the upcoming budget pre-hearings and that. And that is all I am saying, is that we should be getting into . . .

MR. CHAIRMAN: You are really throwing it out as an idea at the moment.

MR. HAGGERTY: Sure.

MR. CHAIRMAN: Mr. Barlow?

MR. BARLOW: Would there be any advantage here--we talked about bringing the, what is it, the federal finance--the Blenkarn Committee, you know, either meeting there or here sort of thing, with them or a delegation from that committee, you know, in view of the report that they have done.

MR. BOND: We have copies of the Blenkarn Committee's report; if you would like to peruse it I will get you all copies.

MR. BARLOW: I guess I am asking a question . . .

MR. CHAIRMAN: I do not know if there would be that much value talking to the members because--unless Ms Stephenson has a . . .

MS STEPHENSON: Well, it seems to me that there are some what I would consider significant omissions in the final recommendations of the Blenkarn Report, and I would like to know why. Because I cannot get an understanding of the rationale for the omissions within the document and evidence.

MR. CHAIRMAN: We should invite Mr. Blenkarn . . .

MS STEPHENSON: Well, what I would like is to have the Committee decide whether they agree with me or not that those omissions should in fact be explored, and the rationale for leaving them out. Maybe we can think about that over the weekend and then we can decide that next week, but that is one of the things that is--that I think might be reasonable. Because some of the directions they are pursuing are not totally in line with the philosophy related to 116; there is some discrepancy, and I want to know why that is there.

MR. CHAIRMAN: Any comment on that?

Mr. Foulds?

MR. FOULDS: I think that Dr. Stephenson makes a very good point. I would like to think about it and maybe make a decision about that next week . . .

MS STEPHENSON: Next week, yes.

MR. FOULDS: . . . but I think your line of argument is very interesting and I certainly would like to give that some thought.

MS STEPHENSON: There must be some reason for some of the things they did not do. I think they supported the things they suggested pretty well, but . . .

MR. FOULDS: Yes.

MR. CHAIRMAN: All right, so we will put that on the agenda to discuss next week, then. Is that the wish of the Committee?

The logical person would be Mr. Blenkarn himself, I presume.

MR. FOULDS: And probably one or two . . .

MR. CHAIRMAN: But you are not asking us at this stage to make any inquiries as to his availability. His House starts sitting the 1st of October.

MR. McKENZIE: Do we have a list of all of the 134 recommendations they made on their committee? I presume we do.

MR. BOND: Yes, we do. I have a copy of the report itself.

MR. McKENZIE: Yes.

MR. CHAIRMAN: The report itself would be too thick to distribute to all of us?

MR. BOND: It is a very large book with 134, I think, recommendations. The . . .

MR. McKENZIE: Is there a summary of any kind of the recommendations?

MS STEPHENSON: A hundred and thirty-four recommendations is not that lengthy . . .

MR. BOND: They are not that lengthy, but it comes in book form with introductions in each section, and that.

The report that they produced this year is available; it is

very short, it is only three pages. We could get the . .

MR. CHAIRMAN: The supplement, the June, 1986 supplement, would that help us?

MR. BOND: It would be helpful.

MR. CHAIRMAN: Maybe we could . . .

MS STEPHENSON: The list of recommendations plus the supplement would be of--I think that would be useful, yes.

MR. FERRARO: Did we make a decision on CDIC? I am sorry, I do not wake up until 11:00.

MS STEPHENSON: No.

MR. CHAIRMAN: CDIC. I understood it to be the consensus of this Committee that we would like to have them give us a presentation, a factual presentation of what they see in the industry.

Any other business?

MR. BOND: You might also want to hear from the NDP members of the Blenkarn Committee because they did not agree with the findings. They believed that it should be at 10 per cent on ownership, as opposed to 30 per cent; they thought 30 per cent was too generous.

MS STEPHENSON: Steve Langdon was a member of the committee, yes.

MR. FOULDS: He would probably be the best.

MR. CHAIRMAN: Any other business?

Until Tuesday morning, then, meeting adjourned.

The committee adjourned at 10:40 a.m.

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

TUESDAY, SEPTEMBER 23, 1986

Morning Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Stephenson, B. M. (York Mills PC)

Ward, C. C. (Wentworth North L)

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Witnesses:

From Royal Trustco Ltd.:

Cornelissen, M. A., President, Chief Executive Officer and Director

Inwood, W. J., Senior Vice-President, General Counsel and Security

From the Toronto Stock Exchange:

Larocque, M. J., Director, Economics Division

Rider, S., Manager, Stock Price and Index

Nightingale, N., Economist

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday, September 23, 1986

The committee met at 10:05 a.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: We have with us today Michael A. Cornelissen, president of Royal Trustco Ltd. Mr. Cornelissen has a very hefty brief that he is going to go through and which is in front of you. He is prepared to entertain questions thereafter.

ROYAL TRUSTCO LTD.

Mr. Cornelissen: I would like to introduce William J. Inwood on my left, who is the senior vice-president and general counsel. We certainly appreciate the opportunity to appear before the committee to talk about concentration in the financial services industry and, in particular, about our views on the ownership of financial institutions. We understand you have provided a period for questioning, so we will limit our presentation to allow for that.

We propose to divide this subject into two parts. First, we want to register our strong conviction that our financial markets today are highly competitive, the more so because of the contribution made by major shareholders in the trust industry. Second, we want to deal with conflicts of interest and related-party transactions and persuade you that any opportunity for abuse that exists in these areas is independent of whether the institutions are closely or widely held. As well, we want to refer to Bill 116 and discuss the impact it will have on this critical area.

In our discussion of competition, we would like to tell you something about the global environment in which our financial institutions operate today and try to give you a perspective on the competitive forces we face. We want to do this in three parts. First, we want to give you some statistics on our industry, both on a world scale and on a domestic basis; second, we would like to illustrate for the committee the global scale of our marketplace; and third, we would like to describe for the committee some market share information we think will be persuasive with regard to concentration.

Consider that today in the popular list of the Fortune 500 companies, if Canadian companies were on the list, the first Canadian company would be General Motors of Canada, ranking number 45. That listing includes only industrial companies.

In the financial services industry, until recently, Citicorp was the largest bank in the world, although recently and with the appreciation of the Japanese yen, Dai-Ichi Kangyo Bank has overtaken it. The first Canadian institution on the Euromoney list of major banks is the Royal Bank of Canada and it is number 32. We have illustrated the comparative size of Canadian banks in table 1 and a graphic illustration of that point is found in appendices 1 and 2, which you should have before you.

We want to ask you to narrow the scope to our domestic industry. Here we have listed for you, by balance sheet asset size, the ranking of the major banks and trust companies of Canada. You will see in table 2 that Royal Trust is number 10, with balance sheet assets of approximately \$13 billion.

The graph appearing as appendix 3 vividly illustrates the large gap between the top five banks and other institutions. You will note that the gap between the largest Canadian bank on the list and the first trust company on the list is \$74 billion or six times the assets of Royal Trustco. In addition, Royal Trustco is more strongly capitalized than any other major Canadian financial institution. We do not mean to belittle Royal Trust, of which we are very proud, but we think these numbers bring some perspective to the discussion of concentration.

10:10

It was said by Deputy Minister Davies in his brief to this committee that small companies appear to be more vulnerable. I think that should be viewed in the light of the fact that, as a group, trust company loan losses amount to only 0.09 per cent of their assets, whereas loan losses by the major Canadian chartered banks amount to 0.64 of their assets, or almost seven times as much.

As our second illustration, we would like to turn to the global nature of the financial services marketplace. While we do this, we ask you to keep in mind the relative size of Canadian institutions in world terms as we have described them to you.

The abiding trend in financial markets today is globalization. In both financial intermediation, which is the deposit-taking and lending business, and market intermediation, which is the securities industry, markets function on a global basis 24 hours a day.

Consider that today we operate merchant banking and other financial businesses in Hong Kong, Singapore and Japan. We conduct stockbroking in the United Kingdom and operate commercial banks in the United Kingdom and in Switzerland. The business for which we compete is in these markets and, of course, at home. That is because many of our personal and commercial clients operate internationally and we must be prepared to meet and service their accounts on an international basis. On a functional basis, we and many other companies source part of our funding in the European markets. We participate in international loan syndications and source business of all kinds outside of Canada to bring into this country and vice versa.

Many Canadian corporations list their securities in the international capital markets and have their shares issued in these markets. Many of our individual clients are mobile and expect us to be able to provide them with financial services wherever they go. Our clients frequently require bank accounts in different currencies and in different jurisdictions.

Probably the most common example of the internationalization of financial services is something you are all aware of and probably carry, the payment card that allows you to tap your funds from remote teller locations. Our clients who carry these cards, for example, are able to access their funds from more than 10,000 locations right across North America.

Having said that we must compete with international firms and provide services in the global marketplace brings us to our third point, which is to illustrate with some market share information the high degree of competitiveness, or in other words the lack of concentration, that exists in our domestic financial markets.

The trust industry brief filed with the committee by the Trust Companies Association clearly makes the point that the risk posed is not in concentration itself but in whether concentration results in a reduction in competition within a clearly defined market for particular goods or services. We reiterate the point made by our industry brief and believe that no evidence exists to support the concerns expressed about the current level of concentration in the financial services industry.

To the contrary, we believe that consumers of financial services in Canada have never enjoyed a more competitive marketplace. To illustrate the degree of competition that exists, we would like to provide the committee with some statistical information by major product category.

In table 3, assisted by graphic illustration in appendix 4, there is a comparison of the market share by type of institution of deposits, commercial lending, consumer loans and mortgage loans. I will pick up a couple of comparisons.

With respect to demand and term deposits, the trust industry as a whole has an 18 per cent share of the market, compared with the banks' share at 65 per cent. Royal Trust's share of demand and term deposits is 4.1 per cent. The market share of mortgage approvals for 1985 was 24 per cent for the trust industry, compared with 40 per cent for the banks. Royal Trust had 7.4 per cent of mortgage approvals.

For corporate trust services, Royal Trust has 14.2 per cent of the market, while the largest player in the trust industry, Montreal Trust, has 20.6 per cent. For mutual funds, the trust companies have 39 per cent of the market, banks have a 10 per cent share, life insurance companies have one per cent, while brokers and independents have 50 per cent. The Royal Trust share is five per cent of the mutual funds market.

On the basis of this information, we would agree with the statement found in the 1985 federal green paper, which says:

"When, indeed, the number of different institutional groups serving particular markets is taken into account, there appears to be little cause for concern about concentration in the financial sector. At present, the number of firms active in individual markets is sufficiently large to ensure a very competitive environment."

In addition to the wide degree of competition that exists with respect to traditional product services, we submit that the trust industry has been a major contributor to some key financial services industry innovations in this country. Some examples of this, provided by us and by others, are the following:

You may have heard of the Royal LePage mortgage. This product was developed by Royal Trust with our subsidiary, Royal LePage, and was designed specifically to create an attractive convenience-oriented product for the consumer through a pre-approval process. Prior to its development, consumers

had to wait sometimes as much as a week to obtain mortgage approval during the delicate and often nerve-wracking process of buying a home.

We introduced a three-hour approval process and followed it up with giving the real estate agent the ability to approve the mortgage on the spot, or indeed even before the sale took place. As a result of that, other institutions have since followed that lead. The Bank of Montreal has set up an arrangement with Block Brothers, and the Toronto Dominion Bank has set up an arrangement with Remax.

Double-up mortgage: We have developed a double-up mortgage that gives consumers the ability to prepay a large portion of their mortgage every year by doubling up their normal monthly principal instalments. This gives consumers the ability to repay their mortgages much more quickly than they would have been permitted to do with other institutions.

We have provided a new product called the Gold MasterCard, which introduced a one per cent discount on all purchases made with the card. The interest on the outstanding balance is also some 400 basis points less than that on competitive cards. This card is the only one of its kind, and it has gained widespread consumer acceptance as a result of the direct financial benefits associated with it.

Longer opening hours: The trust industry has led the way to extended, longer opening hours, with the result that today many other financial institutions, including the banks, have also had to extend their operating hours from early in the morning to late in the evening.

We submit to the committee that to view the presence of strong major shareholders in the trust industry as posing a threat of concentration is to view the issue wrongly. The opposite is true. The participation of strong major shareholders in the trust industry, by directly injecting more equity, giving financial support and encouraging innovation, has enhanced competition in what had previously been a highly concentrated banking system. It is a situation analogous to that of David and Goliath. The trust industry has discovered the Goliath-like banking system's major weakness, and the consumer has been the beneficiary of the changes across this system that the trust industry innovation has provoked.

To place ownership controls on the nonbank trust sector would be to deprive consumers of a strong catalyst for innovation and an important choice in the financial services they can obtain. Earlier, we mentioned the trust industry's brief, which we fully support and which deals extensively with the topic of concentration.

In the interests of time, we would like to turn now to the second part of our presentation and deal with the subject of related-party transactions and conflict of interest.

Committee members should understand that they are not faced with a choice between closely held or widely dispersed ownership, because there are today three models of ownership in the Canadian financial services industry: first, widely held institutions such as the chartered banks; second, closely held institutions; and, third, institutions such as Royal Trust, which have a combination of a major shareholder interest and a substantial public investment.

The debate on the topics of self-dealing and conflict of interest centres on the false assumption that closely held ownership is inherently dangerous and widely held ownership is inherently safe. Institutions may be either widely held and controlled by a small cadre of management or controlled by a major shareholder. In either case, it is the accountability of those who operate or own the financial institutions, both banks and nonbanks, that determines whether abusive practices can occur.

10:20

Self-dealing can be defined as a non-arm's-length transaction. This can include transactions between a financial institution and a major shareholder, directors, senior officers or affiliated companies. It is critically important to recognize that while some of these transactions are harmful--both Crown Trust and the Canadian Commercial Bank situation are examples--others are reasonable and proper commercial dealings between related parties.

In simple terms, harmful self-dealing or conflict of interest is a win-lose situation. The interests of the institution, its depositors, consumers and shareholders all suffer. That is why rules in all trust companies' legislation prohibit making loans and investments that will benefit directors and major shareholders.

On the other hand, where the related-party transaction occurs on arm's-length terms--in short, a fair deal--it is a win-win situation and beneficial to all parties concerned. The important principle that many related party transactions are constructive and reasonable has been recognized by both the Senate banking committee and the House of Commons finance committee.

As we stated, harmful self-dealing or abusive conflict-of-interest situations are possible in any type of financial institution, widely held or closely held, both bank and nonbank. It has long been our stance that the proper approach is to create a regulatory environment that fosters the accountability of management, directors and owners, while retaining the benefits that majority ownership of a financial institution can bring.

In this regard, we believe a major shareholder can contribute significantly to the health of a financial institution. Consider some of these benefits:

Major shareholders can provide important equity capital, which is the engine of growth and, ultimately, of competition. The financial support of a major shareholder can also backstop a financial institution in troubled times and thereby protect the interests of depositors and shareholders.

A fundamental value that a major shareholder can bring to a financial institution is leadership to management, both in terms of direction and succession, and of ensuring management's overall accountability.

Establishing ownership controls as a method of controlling self-dealing and conflict-of-interest situations is analogous to banning swimming to prevent drownings. Given the occurrence of tidal waves and floods, it is doubtful that such a regulation would be successful, and the benefits of an otherwise healthy and pleasant recreation must be forgone. So, too, ownership controls would be a crude tool with a questionable effect that would deprive our financial services industry of the benefits a major shareholder can provide.

We have tabled with the committee a document we have prepared, entitled Responsibility and Innovation: Toward a New Framework for the Financial Services Industry, which details our business principles and our views on how the regulative process should be shaped.

As we stated a few moments ago, we are the third model of ownership in the financial services industry. Therefore, we would like to take a few moments to highlight some of the principles under which we operate.

At Royal Trust, our fundamental business principles include a major commitment to the quality, timeliness and accuracy of board and committee reporting; an emphasis on the number and role of independent directors on our board of directors; cumulative voting rules for the election of directors to facilitate minority shareholder representation; significant equity participation by senior management to ensure a clear mutuality of interest with all shareholders; a high level of accountability to a major shareholder and, most important, in the context of our discussions here today, a policy that invites substantial public investment, reflected in a public shareholding in Royal Trust of nearly 50 per cent.

We think we have tackled the ownership issue in a responsible way. We invite the committee members to examine our material.

We would like to turn to Bill 116, the proposed Loan and Trust Corporations Act. We have made serious representations in all parts of the process leading to the drafting of the present bill. At all stages we have consistently pointed out to ministry officials that there are serious flaws in the bill, specifically where it deals with related-party transactions and conflicts of interest. So far, we have not been able to persuade policymakers to listen to the matters we have raised.

Simply put, the bill is overzealous in its attempt to regulate conflict of interest and related-party transactions. I must emphasize that we are not in disagreement with the objectives of the legislation, but we find that the statutory methods and the regime proposed to achieve the objectives are inappropriate and unworkable.

Take, for example, the networking of financial services, where one institution provides consumers with a product or service offered by another institution. In our view, Bill 116 is too restrictive and does not contain the kinds of forward-looking rules that would facilitate such reasonable commercial transactions.

We are also concerned about the restrictions of Bill 116 that would affect our discretionary fiduciary or pension investments. As you can imagine, it would be crippling to a major trust company not to be able to offer perfectly appropriate corporate investments to its clients as a result of restrictions aimed at self-dealing.

Furthermore, as a federally chartered trust company with a long history of professionalism in our industry, we are particularly troubled by the lack of harmony we are witnessing between the levels of government. We see the proposed rules as being out of step with such proposals as those to create international financial centres in Montreal and Vancouver, and it is not unreasonable to suggest that these proposed rules may lead to a loss of influence for Ontario in financial matters, to the benefit of the federal government and other jurisdictions.

In the document we have tabled with you we identify a workable framework of rules as being the key to regulatory reform. Our industry, with this new legislation, is being equipped for the future, and we must design a regulatory regime that will not only achieve the necessary result in terms of investor and depositor protection but also permit us to compete effectively in the global marketplace we have described. Bill 116 must be modified to allow us to operate with flexibility, and we believe it is possible to do this while preserving the policy objectives of the legislation.

Specifically, rather than try, as the bill does unsuccessfully, to regulate all related-party transactions and conflicts of interest, we strongly recommend that the bill be made flexible by allowing at least some of these transactions to be dealt with by a regime of corporate self-governance through internal review.

Our brief details our approach to the key issues. We emphasize the following:

We have pioneered a method of internal regulation with our business conduct review committee, a committee of our board of directors composed entirely of independent directors. This committee is charged with reviewing and approving conflict-of-interest and related-party transactions of all kinds. We believe Bill 116 must be modified to incorporate this type of review process or these new rules will remain unworkable for the trust industry.

From a regulatory point of view, corporate governance--an internal system of checks and balances--is highly effective, since it deals with matters on a pre-fact basis rather than after the fact, it provides flexibility, it is extremely cost-effective and it effectively expands the regulatory regime into every company. Instead of one regulator that governs all financial institutions, each financial institution assigns a regulatory role to those members of its independent review committees. Effectively, you are creating many more regulators.

We have always stressed that corporate governance must be a cornerstone, but it is only a part of a necessary package of reforms that we outline on page 10 of our position paper tabled with the committee. Taken together, these form a workable set of regulatory rules that we believe would enhance competition and at the same time protect the interests of depositors and consumers.

That completes our remarks. We will be pleased to entertain questions.

Mr. Chairman: Thank you very much. That was a very complete and logical presentation.

Mr. Ashe: I suppose in a sense I am starting at the end and working towards the beginning. First, let me put my own viewpoint and position up front so there is no uncertainty about it.

I think the growing role of the trust companies in the broad financial services has been helpful in a competitive way, as you pointed out. We are getting a lot more services and so on by all, including the banks, because of that competition. In my view, that has been helpful and healthy, and the stronger companies, such as your own, build confidence within the community as well.

If I may move back to the other end for a minute, has the Ministry of Financial Institutions asked the industry on a company-by-company basis to

comment on Bill 116? Are the concerns you have outlined simply your corporate concerns, or are they the general concerns of the industry? Has the industry provided input, or has the Royal Trust Co. presented its brief as a single corporation?

10:30

Mr. Cornelissen: We have been working closely with the Trust Companies Association of Canada, and the concerns were communicated by the association. Our people were part of the trust companies association team, working with the regulators during the drafting process of the bill.

Mr. Ashe: What has happened since drafting? It is further along. We got the impression in the presentation that pretty well everybody was on side. I appreciate that you said you accept what the bill is trying to do; you have some problems with how it is trying to do it. I do not think we got that impression; at least, I did not get from the deputy minister that that was the case.

Mr. Inwood: We have taken every opportunity throughout the process leading up to the current bill, both in our industry presentations and as Royal Trust, to make our views about the bill known. With the present draft of the bill, the opportunity for us to make them known is in places such as this and to committee members who will study the actual language of the bill. Those are the opportunities that exist now.

Mr. Ashe: As far as you know, you have not been asked directly as an industry or as a corporation for further critique on the currently drafted bill by the ministry.

Mr. Inwood: Not that I am aware of.

Mr. Ashe: I think that aspect is very helpful for the committee and the process that is being taken.

May I go back to your services? Again, I will put my conflict up front in that I happen to be a holder of a gold card and take advantage of some of your other services. Indirectly--or in my view, directly--they come into the overall question of conglomerates and, hence, diminishing competition, which is the fear of some.

When a company, whether it is Royal Trust as an operating arm or some other financial institution, comes out with a new service, it seems to come out with wheels, whistles and banners flying, the one per cent and the interest rate, which jumped three quarters of a point very quickly, as we all know. It seems that once you have an established marketplace, a lot of the initial advantages disappear very quickly.

As another example of the so-called larger loans or lines of credit, I will use your own company. As I understand how you have to operate to make money--which is the name of the game; I have no problem with that, by the way--you are operating at maybe 1.5 or, maximum, two per cent above prime on the secured superloans. Then you have the market. I say "you," but I do not mean only you.

As soon as you have the market, the spread jumps from 3.5 per cent to four per cent to 4.5 per cent to five per cent, in that range. I do not mean it moves continuously, but the 1.5 to two per cent became 3.5 to five per

cent. Granted, the competition is there and will draw people away. That is why we still have to have a very competitive market: so you have a place to move. If it shrinks too much, you are stuck; you cannot move.

I guess I am asking two questions: One, why does a company feel it has to go that route and take the dropoff that comes with that? Two, do you think that is really Hoyle? Again, that is the marketplace, which I support 100 per cent. I will say that up front too.

Mr. Cornelissen: Those are good and interesting points. I think it is normal in any new product introduction, be it a stove, refrigerator, motor car or whatever, to have introductory features to a product to gain consumer attention.

Mr. Ashe: But the guy who has already bought it--the stove, the fridge, the apartment he has rented or the car he has bought--does not pay a higher price after he has got it. That is not the case here.

Mr. Cornelissen: Correct. In fact, if you take our gold card as an example, when we first introduced it we offered a one per cent discount provided you paid the outstanding amount by the due date. Since then, we have improved that feature to give you the one per cent regardless of whether or not you pay your account on the due date; so that particular product has had a subsequent improvement over the initial product.

Mr. Ashe: My comments are more towards the superloan, because I agree it was tradeoff. When the interest rate went up with the other, that was a plus.

Mr. Cornelissen: I should add that the fee is also going up by \$14 a year.

The whole area of consumer lending is a bit of a sore point with the trust industry because trust companies are constrained by law, by regulation, from having at least two thirds of their assets invested in secured loans. There is in fact a restriction on unsecured lending by trust companies. It means trust companies have a restriction on making unsecured consumer loans as well, and that is one of the areas where we have asked in all our briefs for an extension of those powers, particularly to larger, more responsible trust companies.

The spreads on consumer loans are higher than they would be on secured corporate loans or residential mortgages, and the reason for that is twofold: first, the administration costs are much higher in terms of computer systems, and second, the loan losses are much higher.

Mr. Ashe: Excuse me. Can I interrupt you for a minute? I think you are going on the wrong track. Perhaps I did not make it very clear. I am talking about the same class of loan, where you get somebody in at a certain spread above prime, and then it kind of moves up after you have your clients.

I am not talking about comparing. I appreciate when you have a corporate client versus a consumer client plan. I am talking about consumer loans that are secured through collateral mortgages or whatever, where the spread grows greatly once you get your marketplace established.

Mr. Cornelissen: I am not familiar with the practice of increasing spreads over prime on a loan once it is granted. I am not aware of that practice in our organization.

Mr. Ashe: I am not suggesting immovable interest rates. All I am saying is that the spread widened considerably after you--again, I say "you," and the context is very specific here, but they all do it--got your base, which prompts people to switch, and I do not think that is necessarily good. When you are all looking for new business, the fact that there is competition is in my view is good for the marketplace; but when you are constantly switching, surely that cannot be good for the marketplace or the company. I think it does not matter what kind of a business you are in. To put something on the books costs money and to take something off the books costs money.

Mr. Cornelissen: All our marketing and product policies are designed to encourage our consumers and clients to stay with us. Having a client on the books is a valuable asset. I agree that if the trust company did that, it would not make sense.

Mr. Ashe: Maybe I had better leave that one for now and send you some numbers.

Mr. McFadden: I would like to compliment Royal Trust for a very clear, intelligent and thorough brief. We are just beginning our work here, and it is very helpful, certainly from my point of view, to review this. You have made your points extremely clear.

I have two or three items relating to the brief that I want to canvass with you. I am sorry I have not read the brief and your supporting material--I have not had a chance to go through it in detail--so this will be fairly superficial.

10:40

On page 8 you outline financial institutions' market shares in 1984, and you go on, I gather, to discuss further the figures from 1985 as well. We have had discussions about the general area of competition in the financial services sector. Clearly, from the consumers' point of view, it is desirable to have competition in the provision of loans and various services.

Given the breakdown of the various markets for financial services, as shown here, what are the areas where you think enhanced competition would be desirable from your point of view in markets you would like to enter but are not in because of regulatory impediments or whatever? You are including mortgage loans, of course. Is it accurate to say you are anxious to become more active in commercial or consumer loans? I am just curious to know the areas where you would like to see more action and where you think competition would be desirable right now.

Mr. Cornelissen: Those are the two areas where we would like to have expanded powers. I pointed out the restriction that we currently operate under. Banks have no restriction on unsecured lending and we do. We believe trust companies that have reached a certain size and have a certain track record should be permitted to increase their proportion of unsecured lending. That would be particularly in the commercial loan and unsecured consumer loan area.

I should emphasize, however, that both those areas, in particular commercial loans, are highly competitive. The commercial loan market has been invaded by some 80 different, foreign-owned, schedule B banks. Frankly, the spreads in the margins there are very small. I do not think there is any area in any of these products that is not highly competitive.

Mr. McFadden: You would clearly like to enter those highly competitive areas.

Mr. Cornelissen: We would like to have greater flexibility to enter them.

Mr. McFadden: One of the matters raised with us last week by the Ministry of Consumer and Commercial Relations, as well as in our own discussions of the whole question of the thrust of policy, was whether the primary aim of the thrust of policy should be to enhance competition or whether it should be the financial integrity of institutions, and that above all else. You can probably mesh the two. I know the ministry's view--and I think this is part of the prevailing view in general through history--has been that financial integrity is the the most important thing and then things fall out from there, except perhaps for recent years when we got involved with licensing large numbers of trust companies and new banks.

In terms of you own internal operations, I am curious to know the whole integrity argument. There is this question about the activities of boards of directors. On page 17 of your brief, you mention the presence on the board of independent directors, who I assume are there to protect not only shareholders' interests but depositors' interests. What percentage of your board consists of what would be termed independent directors?

Mr. Cornelissen: I think the number is 60 or 70 per cent.

Mr. Inwood: It is that high.

Mr. McFadden: You are at 60 or 70 per cent.

Mr. Cornelissen: Sixty or 70 per cent of our board are not related to any affiliated company or major shareholder.

Mr. McFadden: That is quite a bit in excess of--

Mr. Cornelissen: That is in excess of the 50 per cent that they normally would be entitled to.

Mr. McFadden: In terms of dealing with loans, I am curious to know about an affiliated company seeking financing from Royal Trust for whatever purpose. I am not trying to delve into stuff that is not our business, but pursuant to your own internal operations, as a general rule, if an affiliated company applies for a loan, does it get some sort of fast-track treatment or is it more typically treated as anybody else would be with all the usual tests?

Mr. Cornelissen: I should first remind the committee that loans to major shareholders or their subsidiaries are prohibited in any event. The affiliated companies to whom we would be permitted by law to make loans would be quite far removed from our group. They would not receive any different treatment from our other clients. In fact, it is probably even the converse, because our third-party clients need to be satisfied and serviced better. There is no preferential treatment. All loans of that nature to remotely affiliated companies are first reviewed in a business sense for arm's-length pricing, etc., by the investment committee of the board of directors, which has a majority of independent directors sitting on it.

Second, any transaction, once it has been approved at that level in business terms, is then automatically passed on to our business conduct review

committee which is composed 100 per cent of independent directors who then approve or disapprove the transaction.

As a percentage of our total loan portfolio, such loans would be less than half of one per cent. It is a very small proportion. Usually such loans are made as part of a syndicate of other banks and trust companies where we are invited to participate.

Mr. McFadden: You have certainly set up a structure that would probably be beyond even the minimum requirements of new legislation.

Mr. Inwood: As you began your questioning, you were mentioning the policy objectives of the legislation. We would be in agreement with it but we would make one comment about it.

Going back to the white paper, this legislation was created in the climate that followed some salutary events here in terms of what happened to trust companies, but it is important to keep in mind that the difficulties that have happened to the financial industry, setting aside those sunspot events, have more to do with bad management and severe economic times than the problems of self-dealing and conflict of interest. That would be things tied to high energy prices and the failure of regional economies. Those are the things that have jeopardized the health of the financial institutions.

We would advocate these rules with that thought in mind. Policy objectives can still be met but there is a high concern that absolute prohibition against related-party transactions may not be totally appropriate in the light of those events.

Mr. McFadden: I agree.

I wonder whether I could ask one final question related to ownership. You highlighted in your brief--basically we do not have two classes of ownership patterns, namely broadly held and closely held institutions, but there is your status, which I think you term--

Mr. Inwood: Page 13.

Mr. McFadden: --as a combination on page 13, where you have a major shareholder interest.

Interjection.

Mr. McFadden: Sorry, I would not want to miss these pearls of wisdom.

Mr. Ashe: He is on his rocking horse.

Mr. McFadden: That is right.

I suppose you have the hybrid between the two; namely, the combination of a major shelter interest with a substantial public investment. In laying that out, are you suggesting that any one of these or any combination is more in the public interest than another?

I know some people--the banking community in particular are saying we should put on 10 per cent ownership restrictions so that the trust companies and everybody else play by the same rules the banks do with the Bank Act. I know the trust industries are not in agreement with that perspective.

I take it--and I just want to be sure--the thrust of your brief, as I understand it, is that you suggest any one of these three is a valid approach. Am I right in that? Are you suggesting, for example, that yours might be more in the public interest and closely held, or am I correct in assuming that you are suggesting any one of the three is valid provided that the internal operations of the company, the independence of the board and proper practices are maintained?

Mr. Cornelissen: That is a good question. First, we should remind the committee that the banks' 10 per cent ownership limitation was imposed originally not for conflict-of-interest or self-dealing purposes but to prevent foreign investment and foreign control of our banking industry.

We believe very clearly that major shareholders can significantly benefit a financial institution. We have no concerns about a widely held institution. We do have concerns about very closely held institutions. In other words, if you asked us what we would recommend, we believe that widely held institutions and institutions with significant public ownership are the desirable objective. We do not believe that closely held institutions are necessarily appropriate to the financial service industry. What is key is that there be a clear and adequate system of accountability of management, shareholders and directors.

10:50

The briefs we have provided in the past--recognizing the benefits that can be bought by a major shareholder, particularly the accountability that a major shareholder brings to the management of a financial service company--recommend that regulatory approval be sought at various levels of a major shareholder acquiring its interest, because we believe strongly in the necessity to establish clear standards of character and fitness not only of the manager and the directors but also of the owners. We believe that when a major shareholder reaches a 25 per cent level, regulatory approval should be sought on the character and fitness of the owner. We believe that when it reaches 50 per cent, further regulatory approval should be sought. We believe there should always be some public interest in a company and we would not recommend a major shareholder going beyond 75 per cent ownership of a major financial institution. In fact, we believe that 50 per cent or wide public ownership is the ideal balance.

Mr. McFadden: What would you suggest we should be doing in a legislative sense about the closely held institutions? Are you suggesting it be put in legislation that no one can own more than 75 per cent, or are you suggesting that this would be a desirable policy objective? I am curious to know how far you think the Legislature should go on a thing like that.

Mr. Cornelissen: It is a desirable policy objective down the road. There are obviously difficulties and challenges related to very small financial institutions, and they are numerous around the country. We believe that possibly asset size cutoff rates should be established--that is, that beyond a certain asset level, public ownership should be required--and that possibly with the small ones there should be a greater insistence on independent directors with the internal self-governing process.

Mr. Ferraro: I had the distinct pleasure of being an employee of Royal Trust for 10 years before I got into this life of crime, and I want you to know that I am not going to take the opportunity--

Mr. Ashe: We could comment on that.

Miss Stephenson: You have a conflict.

Mr. Ferraro: No. Aside from the fact that it still has my mortgage and a registered retirement savings plan, I do not consider it a conflict.

I want you to know that I am not going to give you hell about the lousy raise I got in 1982.

Mr. Cornelissen: That was before my time, Mr. Ferraro.

Mr. Ferraro: Quite frankly, I was treated very fairly and enjoyed my years at Royal Trust immensely.

If I might just digress for a minute, I want to compliment Mr. Cornelissen on his presentation, as other members have. I can also tell the members of this committee that I can appreciate Mr. Cornelissen's shoot-from-the-hip approach and style. I can recall a management meeting I had the pleasure of attending in Toronto, and everybody wanted to ask the question about remuneration for management and directors. Being somewhat daring, I asked the question of Mr. Cornelissen. He probably will not recall this, but he went on at length, for about 20 minutes, and not only told us what we could expect but also, I think, embarrassed a lot of the senior vice-presidents when he disclosed their salaries, how much stock they held and so forth. I have always admired him for that.

Mr. Chairman: I bet you did not get your raise.

Mr. Ferraro: I did get a little one; never enough.

I have a couple of questions. First, a general question. Do you think the distinction between trust companies and banks is really great enough? The argument has been made that the public out there really does know the exact difference, by and large, between what a trust company does and what a bank does. There have been arguments made, for example, that companies such as Canada Trust in essence really want to be banks.

Do you think that distinction is obvious, should be retained or expanded or that many of the services offered at banks and, conversely, at trust companies should be interchangeable?

Mr. Cornelissen: Trust companies can do virtually everything a bank can do. There is probably only one service that trust companies typically do not provide and that is foreign exchange transactions, but even that will come soon.

Mr. Ferraro: You do not do much commercial lending directly, outside of mortgages, though, do you?

Mr. Cornelissen: No. We have regulatory restrictions on our commercial lending in terms of the unsecured portion which we referred to earlier, but trust companies really can do everything that banks can do. However, banks cannot do everything that trust companies can do. The key there is in the fiduciary or advisory capacity that trust companies provide. You are correct in saying that we regard our major competition as being the big banks. I know Canada Trust does as well, and I think all the trust companies do.

From the consumer's point of view, there really is not that much difference in terms of the services offered. They can walk into a bank branch or a trust company branch and demand exactly the same type of service. They might not get the same kind of service, but from the consumer's point of view there is very little difference. We all know that, in the regulatory sense, it is quite different.

Mr. Ferraro: If you advocate that major shareholders should be allowed in trust companies, would you subsequently agree that the restriction of 10 per cent in banks is unfair and should be abolished, or does asset size have a bearing on it?

Mr. Cornelissen: No. We see no reason that banks should also not be subject to the disciplines and advantages that could be provided by a major shareholder or a group of major shareholders.

Mr. Ferraro: You comment on it on page 12 when you talk about the benefits of major shareholders, but what I am getting hung up on is the definition of a major shareholder. If you have a major shareholder in a trust company such as Royal Trust owning 10 per cent, and certainly 10 per cent in a bank, would that necessarily mean this situation is going to provide a greater or lesser catalyst than someone who owns 50 per cent of Royal Trust?

Mr. Cornelissen: A 10-per-cent shareholding presumably would entitle the shareholder to a seat on the board, but it does not really enable him to truly hold management accountable for what it is doing. A major shareholding that would be regarded as meaningful would be from 25 per cent to 50 per cent.

Mr. Ferraro: On page 15 you state that "major shareholders can provide important equity capital" and "a major shareholder can also backstop a financial institution in troubled times and thereby protect the interests of depositors and shareholders."

You are not suggesting--or maybe you are--that the depositor and consumer is in jeopardy because of the inadequacy of the Canada Deposit Insurance Corp. at the present time, or can you elaborate a little on that? Are they not protected now?

Mr. Cornelissen: They are protected up to \$60,000. There is evidence in our company and in some others of major shareholders assisting in significant equity injections into trust companies. The whole key to global competitiveness is size. You need to have a sufficiently large equity base to be able to attract the credit rating and funding that is required to growth because size, to a great extent, can reduce your cost per transaction through economies of scale. In today's electronic environment, as you know, you are talking tens of millions of dollars in assistance costs and you can only really justify those on a wide consumer base.

11:00

An example of major shareholder benefits would be the Continental Bank. One of our group companies, Edper Investments, owns 20 per cent of the Continental Bank, even though it is permitted to vote only 10 per cent. I think it is known that Edper Investments did ask the Inspector General of Banks whether he would be more comfortable if it disposed of half its 20 per cent interest, and he said, "No, please stay around."

During the recent funding and confidence problems the Continental Bank

ran into as a result of matters unrelated to its own performance, the major shareholder was able to play a significant role in maintaining confidence and providing that backstop for the funding requirements.

Mr. Ferraro: Is Royal Trust on a different rate? Are you restricted in any way, shape or form in regard to noninvestments outside of Canada?

Mr. Cornelissen: Royal Trustco Ltd. is a holding company which is an unregulated company. It has as its operating subsidiaries the Royal Trust Co., which is a Quebec operation and the Royal Trust Corp. of Canada, which is a regulated trust company. Royal Trustco Ltd., which is the holding company of those two regulated trust companies, is permitted to make investments in other parts of the world, in Timbuktu, England, Switzerland, etc. That is how we managed to create our international spread of financial service operations.

Mr. Ferraro: As a matter of interest, you said public shareholding in Royal Trust is nearly 50 per cent. Does that exclude employees?

Mr. Cornelissen: Employees of Royal Trust own approximately four per cent of the shares of Royal Trust and 50 per cent of our employees are shareholders.

Mr. Ferraro: How many employees do you have?

Mr. Cornelissen: In our Canadian operations, we have 4,500 employees.

Mr. Ferraro: As a final question, much of the discussion of politicians nowadays, indeed that the media have entertained, concerns the free trade discussions. I know Royal Trust had some significant involvement at one time with banks in Florida. Much of the impetus coming from certain critics and proponents is that really what the United States is after is our service sector, financial institutions, etc. Do you want to comment on your opinion of whether you can see much movement towards free trade in the financial industry?

Mr. Cornelissen: In the financial service industry, the banks and the securities dealers have created and are seeking to preserve, to a great extent, domestic ownership and control over institutions. A full free trade agreement should remove those. The banks have dealt with that situation by agreeing to reciprocal arrangements with respect to the introduction of the schedule B banks. The securities dealers are recognizing that for them to gain the access to the capital they so desperately need to compete globally, they have to free up their ownership limitations. Personally, I do not see the necessity for any great fear.

Foreign competition, if it were permitted to come into Canada, would be fierce and it would be good for Canada; at least it would bring Canada into the global financial services marketplace and would tend to strengthen Canada as a financial services centre. London, England, is an excellent example where they have deregulated and permitted virtual free foreign control of domestic financial institutions. That absolutely has not resulted in the demise of the domestic financial services sector. It has created a very bustling, competitive environment which has resulted in London, England, retaining its status as the world's financial centre.

Mr. Haggerty: I want to direct the witnesses to page 18, the bottom paragraph. You raise some concerns about Bill 116 and consider it may be "too restrictive." You go on to say, "We are also concerned about Bill 116's

restrictions that would affect our discretionary fiduciary or pension investments. As you can imagine, it would be crippling to a major trust company not to be able to offer perfectly appropriate corporate investments to its clients as a result of restrictions aimed at self-dealing."

Can you expand on that? Are we talking about the matter in proposed legislation that may contain something now that is of concern to a number of citizens across the province on pension raiding? Is this what you are aiming at? Are you aiming at the Dominion Store pension funds that Conrad Black obtained his rights to, what is called a surplus fund. Apparently, the courts have reversed that decision.

Mr. Cornelissen: This comment is totally unrelated to stripping of surpluses and pension plans. What it refers to is the fact that Royal Trust is the largest manager of pension fund moneys in Canada. We are responsible for the discretionary management of some \$5 billion of pension fund assets. That is out of a total pension fund market of approximately \$120 billion in Canada. There are some 60 to 65 other investment managers in Canada, but we are the largest.

Our responsibility as a fiduciary manager of those funds is to obtain the best return for the plan sponsors. That would include the requirement to be able to invest in the shares and securities of all Canadian companies, which could or would include the stocks of affiliated companies, for example, Trilon, Brascan, Noranda, John Labatt, Trizec Corp., all of which are blue chip.

Mr. Haggerty: Is that all? Are they all concentrations under Trilon as you talk about--

Mr. Cornelissen: No, they are all companies that are affiliated with us one way or the other.

Mr. Haggerty: That is not a concentration though is it? Are they sister companies or affiliated with you, subsidiaries?

Mr. Cornelissen: They are various removals by bloodlines, grandchildren.

Mr. Haggerty: Would you consider those bloodlines to be corporate concentration?

Mr. Cornelissen: No. That is not the issue we are bringing. The issue we are bringing is that legislation would seek to restrict Royal Trust from investing its client funds in blue-chip companies which happen to be affiliated with our group, to the detriment of our clients.

Mr. Haggerty: I love the word blue chips. Morty Shulman is not around right now, but he would have had some fun with that. In other words, you do have substantial financial resources through the pension funds then.

Mr. Cornelissen: It is not our money. It is money that we are responsible for managing.

Mr. Haggerty: What is the average source of best return? When you say best return, is that for the pension fund or best return for the corporation that is investing it? What is the spread? I think Mr. Ashe was getting to the spread.. There must be quite a spread in this particular area,

what you are paying in a reasonable interest rate for borrowing that money from the pension funds.

Mr. Cornelissen: The pension fund money that we manage is not contained on our balance sheet. They are funds under management and we do not enjoy any spread or interest rate from that fund. The money belongs to the pension plan and its sponsors and the beneficiaries. Our income from managing that pension fund is a percentage of the total assets. It is a fee which would range between a quarter to three quarters of one per cent of the annual fund value. It is purely fee income. We manage that fund for a fee. Those moneys are not ours and we do not handle them as our own.

Mr. Haggerty: But you are using that for investment purposes, are you not?

Mr. Cornelissen: Investing those moneys on behalf of the fund sponsors, yes.

Mr. Haggerty: I am trying to get at the numbers, just what the spread is between that. For example, in the past the provincial governments have borrowed money from the Canada pension fund at 3.5 per cent and there are billions of dollars owing to that pension fund. That is pretty cheap money when you can borrow it that way. The point I am trying to make here is that you have the right to borrow money from these large pension funds, and you have suggested in the billions of dollars. Even a return of three quarters of one per cent on the handling of that investment can amount to a pretty huge profit. The question I am trying to get at is, what are we looking at in return for borrowing from that? Are we getting a six per cent return on that money you are investing from the pension fund? What are we looking at? What is the end product? What is your spread in that area, for example?

11:10

Mr. Cornelissen: We have no spread whatsoever on any pension fund moneys we manage. We invest the funds in a variety of ways.

Mr. Haggerty: What is the return on the investment? Are you getting six per cent, seven per cent, eight per cent or nine per cent on it?

Mr. Cornelissen: On our pension plans?

Mr. Haggerty: Yes.

Mr. Cornelissen: They vary, but it would be a mixture of yields on common equities, bonds and cash. Today, I think the average return that we manage to achieve for our clients is around 10 per cent.

Mr. Haggerty: We are looking at 10 per cent on average, but it would depend.

Mr. Cornelissen: With some pension funds, it depends on their objectives and what their pension liabilities are. For example, a fund that is responsible for an employee profile with older as opposed to younger people would have a different investment policy. Management of the fund is designed to have the funds available when the pensions are required. Therefore, it would vary from fund to fund.

Mr. Haggerty: I have no further questions.

Miss Stephenson: Can I ask about the impression I have managed to acquire, that it is the opinion of the principals of Royal Trust Co. that the existence of a major shareholder and the existence of effective management are essentially parallel or unique and the same? You seem to be saying that if there is not a major shareholder in a financial institution, there cannot be effective management, or you are saying that there is a mutual exclusivity, if you like, between a major shareholder and effective management. Is that really what you mean?

Mr. Cornelissen: We believe the accountability of management to the board of directors is of key importance. We think it can be achieved in both a widely controlled company and one which has major shareholders. We think it is simpler, easier and more visible to create that accountability with a major shareholder and that there are significant benefits to be derived from that.

Miss Stephenson: Why and how?

Mr. Cornelissen: A major shareholder is able to exercise a strong voice on the board of directors as opposed to a widely held company, which would have a very wide scattering of directors from across the country who would have more difficulty in getting together to deal with the problem if they had concerns with management performance or accountability. It is possible. It is just made easier through a major shareholder.

Miss Stephenson: It appears to me what you are doing, in effect, is assigning different roles to different directors. It was my assumption, probably a naïve one, that it is the responsibility of each and every director to discharge the obligation he or she has to the investors, to the depositors and to the public in this instance--every single shred or responsibility he or she may have--and to demonstrate that clearly, not only within the company but also externally.

I hear you saying it is only if you have a major shareholder that you can really demonstrate that is likely to happen. I want to know why that should be. You have told me how, but why should that be when you are appointing directors because of their knowledge, their sense of obligation and their integrity? Why the hell should they be any better if they happen to belong to a large corporation and are appointed by that large corporation--because that is how they get there--or if it is one single individual appointed at the request of a small corporation or a group of shareholders?

Mr. Cornelissen: We actually believe the normal statutory obligations of directors in a financial service company such as a trust company, as contained in the Canada Corporations Act, should be enhanced and made more onerous.

Miss Stephenson: I will buy that.

Mr. Cornelissen: We have a clear list of obligations that we expect from our directors that are over and above those contained in normal statutes.

Miss Stephenson: But you are saying it is going to be easier for those directors to exercise the degree of responsibility that you require or that you suggest is most appropriate if they come from a major shareholder, and I do not understand how you can get to that. That seems to be a position without logic, if I may say so.

Mr. Cornelissen: Perhaps my logical friend can help.

Miss Stephenson: It may be practical in terms of past activity, but is that really what is best for the financial institution and the people involved in it?

Mr. Inwood: We would offer the view that, as far as the role of the major shareholder and the role of a director would go, there is a balancing of interests. If you ask what major shareholders can contribute, they are entitled to ask of management and to deliver to management a set of expectations about return on their investment. That is an accountability that management must answer for directly.

However, the other side of it is, what do the directors bring to the table? The arguments we have offered are that there are obviously shareholder-affiliated directors and their interests will, to a degree, be aligned with those of the shareholder. But we have said as well that there should be a group of directors who are independent of the major shareholder, who will balance the major shareholder's expectations. It is this mix of interests that means the corporation has a fair representation for shareholders.

Miss Stephenson: The appropriate solution, it would seem to me, if you insist on having major shareholders of the size of 50 per cent in financial institutions, is to make sure that 95 per cent of all of the directors are independents, totally outside of any relationship with the company; then I could see that you could have a balance. You cannot have that kind of balance if the numbers you quoted today are in existence and if it is anticipated that only those who represent the major shareholder can appropriately make those demands of management.

I thought that was the responsibility of all shareholders, because they are supposed to be acting in the best interests of the company, the best interests of all of the shareholders, the best interests of depositors and, in this instance, the best interests of the financial institutions as they relate to the economy of a jurisdiction.

Mr. Inwood: A board of directors effectively operates as a small democracy, and what we have said is that we have balanced the democracy by adding some votes from quite a number of independents. For example, two thirds of Royal Trust's board is composed of independents. It is a matter of creating some shareholder democracy and adding things like cumulative voting to it to give shareholder representation quite a lot of effect. It would be common in any corporation.

Miss Stephenson: It would be difficult to equate most boards of directors of most financial institutions with democracy in terms of the means of producing that structure in the first place. But certainly if that is your objective, then I would be delighted to hear what you propose in terms of developing that kind of democratic representation on the board of directors.

I still am not convinced, even with all your very cogent arguments, which are only slightly biased. Mind you, that is fine; everyone has a bias. I still do not understand how you really believe that you get greater effectiveness of management and greater accountability of management simply by having major shareholders of the variety you talk about. I guess we are going to continue to disagree about that. Let us find a way to do it better; that is all.

Mr. Cornelissen: May I make one response? If you want one effect of that greater accountability of management resulting from major shareholders, one should refer back to the loan loss percentages between trust companies and Canadian chartered banks that are referred to. Trust companies had one seventh the loan losses of the major banks. Frankly, I do not believe major shareholders would have permitted their financial institutions to go as heavily into less developed country loans and energy investments as the banks did.

11:20

Miss Stephenson: There were some other factors that might have played an important part in that comparison as well.

Mr. Chairman: Very quickly, Mr. Mackenzie.

Mr. Mackenzie: I will not take much time because this is on the same line, although Miss Stephenson has probably done it better than I can. My question is on your comment about 50 per cent being a good balance. The recommendation to Blenkarn is 30 per cent. My colleagues think that is much too high. I am wondering exactly how you defend that 50 per cent. There is no question in my mind that a major shareholder who has 50 per cent or better is in a position to override a board of directors. If it is a one vote-one director situation, which I presume it is, then there are questions in my mind. I have difficulty with your comfortable balance as the 50 per cent, as you said. How would you defend that figure?

Mr. Cornelissen: We believe we have gone further than the 30 per cent recommendation by Mr. Blenkarn. While we do not believe the 30 per cent is necessary, we have created with our internal corporate self-governance a structure whereby, first, any investment of any size is reviewed and approved by an investment committee, which has a democratic majority of independent directors; and, second, we have created the business conduct review committee, which is 100 per cent independent directors and has the absolute power to approve or disapprove any investment the company may make or any transaction the company may have with any affiliated company, with any director, with any owner or with any manager. We think the structure we have created creates a far greater level of accountability than a mere 30 per cent restriction.

Mr. Mackenzie: Does it also put you in a position where you do not have to fear a takeover situation? Is that part of it?

Mr. Cornelissen: Yes.

The Acting Chairman (Mr. Ferraro): How much power, if any, would the executive committee have at Royal Trust, as opposed to the board of directors?

Mr. Cornelissen: The executive committee has no powers greater than those of the board of directors.

The Acting Chairman: But equal to?

Mr. Cornelissen: It has fewer powers than the board of directors.

The Acting Chairman: Okay. If there are no further comments, Mr. Cornelissen and Mr. Inwood, on behalf of the committee, thank you very much for your in-depth and thorough presentation. We appreciate your taking time out to come here.

Mr. Cornelissen: Thank you very much.

The Acting Chairman: The next group making a presentation before the committee is the Toronto Stock Exchange. Ms. Marie-Josée Larocque is director. Ms. Larocque, we welcome you and your assistants to the committee. I wonder whether you would like to introduce the other members of your delegation and perhaps elaborate on what your job is with the Toronto Stock Exchange.

Ms. Larocque: My name is Marie-Josée Larocque; I am the director of economics. We have Steve Rider, the manager of the index section, and Nancy Nightingale, the economist in my group. We do some research in economics. We do marketing research and we do some lobbying efforts.

The Acting Chairman: Will you entertain questions during your presentation, or do you prefer our waiting until the end?

Ms. Larocque: I prefer that you wait. The presentation is fairly short.

TORONTO STOCK EXCHANGE

Ms. Larocque: Thank you for allowing me to speak to you today on the subject of corporate concentration. It is a subject of interest not only to this committee but to the Toronto Stock Exchange and to the Canadian economy as a whole.

Interjection.

Ms. Larocque: Do you have some problems?

Interjection.

Ms. Larocque: In the folder you will find a copy of the speech. At the back, at the end of this speech, there are some samples of charts that were going to be shown. I am not sure whether they will be.

Interjection.

Ms. Larocque: It comes in in a page or two. Shall we wait a few minutes to see whether they can put that together?

The Acting Chairman: Sure. By all means. Let me apologize on behalf of the committee for the delay in getting you on the hot seat.

Ms. Larocque: There it is.

Your mandate as determined by the Treasurer, Robert Nixon, is broad in scope. As I understand it, it is to examine the subject of corporate concentration, drawing attention to the occurrence of mergers and takeovers in the Canadian economy. Among yourselves, an interest has been expressed in examining these issues with a focus on the financial services sector. These are interests shared by the Toronto Stock Exchange. Allow me to elaborate by describing the role of the exchange in the economy. I will then go on to describe the impact of corporate concentration on the TSE and the services it provides.

I would like to emphasize that the Toronto Stock Exchange holds no official position on corporate concentration. As Canada's largest stock

exchange, we see our primary responsibility as the provision of an efficient capital market. To that end, we monitor the effects of corporate concentration on capital markets and on the economy in general.

This presentation contains no recommendations to the committee on the subject of corporate concentration. Rather, we aim to assist you in the information-gathering process, providing insight unique to our experience and perspective. If we can be of any further assistance to the committee, please do not hesitate to ask.

Let me start by describing the function of the TSE, which is essentially a marketplace for the buying and selling of corporate shares or equities. The ideal or perfect market for both sellers and buyers is one in which transactions can be executed almost at will; that is, when a seller wishes to sell shares, there is at the same time an active and willing buyer for these shares. In addition, the spread or difference between the price at which the seller may be willing to sell and the buyer may be willing to buy should be small. This market quality is known as liquidity and is most likely to occur in large, highly competitive markets.

11:30

It is reasonable to assume that the larger the market, the more bidders or competitive buyers there will be for each stock. Therefore, large markets are in a comparative sense more liquid markets. In liquid markets, sellers are protected to some degree from large price fluctuations. Of course, no market is perfectly liquid, and price fluctuations do occur, but it is an ongoing goal of the Toronto Stock Exchange and many other exchanges to minimize this occurrence and to work towards improved market liquidity.

This is our goal, because a liquid market is a stable market and attracts more investors. The more investors in the marketplace, the greater the access Canadian corporations have to equity financing. This financing allows corporations to expand, to build new factories and new facilities, to hire new personnel and to retain current employee levels. In general, equity financing increases the standard of living for all of us.

For a moment, however, let us imagine an illiquid market, one in which there are few buyers or sellers. Those sellers holding stock desired by many could force prices up. Then again, through co-ordinated action or without intention, buyers may bring the price of a stock down. These occurrences may be all the more likely where the number of buyers or sellers is small, with co-ordinated action a greater possibility. These factors can be cause for concern in a country such as Canada, where concentration in specific markets as well as a general concentration of assets, or aggregate concentration, is quite high; in other words, where a small number of large players theoretically have the potential to dominate the market, forcing prices up or down.

The Toronto Stock Exchange is well aware of the unique qualities of the Canadian economy and the potential impact on the liquidity of the marketplace. One means of monitoring these effects is through the TSE 300 composite index. The TSE 300 index is a monitor of stock price activity in Canada. It is often used as a benchmark measuring investment portfolio performance. Many also believe stock price activity as depicted in an index is an indicator of future economic activity.

One of the principles behind a stock price index is that, over time, stock prices generally move together; that is, economic factors affecting one

industry may, in general, affect other industries, resulting, on average, in similar changes in the value of corporate shares.

The Toronto Stock Exchange has selected 300 of the largest stocks listed on its market to monitor these changes. The 300 stocks represent 85 per cent of the value of shares listed on the exchange. These are broken down into 14 groups representing the major sectors of our economy. For example, there is a mining sector, a financial sector and so on. The index is calculated by taking the price of each of these 300 stocks and multiplying them by the number of each corporation's outstanding shares. This is then adjusted to a common level, which today stands at approximately 3,000.

This formula is accepted internationally and is used by such organizations as Standard and Poor's in the United States and the Tokyo Stock Exchange. However, the Toronto Stock Exchange makes a small adjustment. This is in recognition of the unique nature of Canada, in particular the impact of corporate concentration on the economy. In recognition of this impact, the TSE removes from its calculations the holdings by individuals or related individuals of more than 20 per cent of the outstanding shares of any one corporation. These individuals are commonly known as major shareholders.

An example of the way we would treat this activity can be found in the case of TransCanada Pipelines. TransCanada Pipelines has 120 million shares outstanding. Bell Canada owns 50 per cent of TransCanada Pipelines. Therefore, we include in our index calculation only 60 million shares, or 50 per cent, of the 120 million shares of TransCanada. The reason behind this is that the index is set up to monitor stock market activity, in particular changes in the market value of shares. It is assumed that major shareholders may not actively seek to trade their shares but rather may hold them for purposes of controlling the company. These shares are generally not for sale.

The impact of price changes is reduced by removing from the index calculation the controlling interest of major shareholders. This is also done to avoid dual inclusion. That is, Bell Canada's share price already reflects its ownership of TransCanada Pipelines. If we left all TransCanada's shares in our calculation, its value would be picked up twice, once in Bell Canada's share price and once in the TransCanada Pipelines share price.

I know this committee is concerned with the issue of mergers. It would be helpful if I walked you through a major takeover and its impact on the TSE 300.

In an average merger, an individual offers to buy the stock of a targeted company at a price above the current market value of the company's shares. The price may be increased again to attract the more reluctant shareholders. This activity seems simple, but it can have further repercussions.

For example, you may be familiar with the recent takeover of Genstar by Inasco. This started back in August 1985, when Genstar purchased Canada Trustco. It then merged Canada Trustco with one of its holdings, Canada Permanent, and created the largest trust company in Canada. This company's assets are now ranked among the top five Canadian banks. You can see from the chart that Canada Trust would come just before the Toronto Dominion Bank in terms of asset size.

The purchase price of Canada Trustco stock was \$46, \$10 higher than the pre-merger price, which was \$36. This moved the TSE 300 index, a highly

followed market indicator, up by five points. Then, in July 1986, Imasco offered to buy Genstar. This buyout pushed the price of Genstar up \$20 and increased the index by 20 points.

The graph now displayed shows a comparison of the index level had the price of Canada Trustco and Genstar shares remained the same; in other words, if no merger had occurred. As you can see, if you had invested in a security based on the index with the idea that the market was going to fall, you would have lost money; not necessarily because of wrong forecasting, but rather because of a merger arising and affecting the index level. Often, the impact of mergers is not taken into consideration by either investors or forecasters.

Genstar is only one example of the many mergers that may occur throughout the year. In fact, mergers were responsible for at least 35 points on the market so far this year. Our responsibility as a self-regulating exchange is to ensure fair and efficient capital markets, and therefore we monitor these kinds of activities closely. It is our position that, where possible, investors should be ensured equitable treatment. We are therefore supportive of the committee's interest in understanding the impact of corporate concentration on Canadian capital markets. I hope this presentation has assisted you in this regard.

Mr. Chairman: It has. It has been very educational. Any questions?

Mr. Ashe: Can we hear some sort of advice on how we can all make a pile of money on the stock exchange this week?

Ms. Larocque: I am afraid I cannot tell you that. If I knew, I might not be here.

Miss Stephenson: Would that be considered insider information?

Ms. Larocque: It might be.

Mr. McFadden: I have two questions. We have been provided with material from Royal Trust, which shows the top 10 Canadian financial institutions.

Ms. Larocque: In terms of assets?

Mr. McFadden: In terms of assets; and we find Canada Trust in this figure--it does not show at what time this was shown--is about \$20 billion. Your figure shows it to be considerably larger. I assume the Royal Trust brief was done prior to the actual merger of Canada Trust and Canada Permanent. It looked to take on a different asset face. What is going on here?

Ms. Larocque: If it is much lower, I assume it is because they did not include the other corporation.

Mr. McFadden: By the way, members of the committee, appendix 3 in the Royal Trust documents is the bar graph I am referring to that shows Canada Trust at a little more than \$20 billion. Your chart 4 here shows Canada Trust up at more than \$50 billion. That is quite a difference, and I assume the Royal Trust bar graph was developed--

Miss Stephenson: Can we determine the date? There is no date.

Ms. Larocque: Steve Rider would like to make a comment because you saw the presentation and wondered.

Mr. Mackenzie: Also on page 22, the \$21.5 billion and the \$13.5 billion still do not add up to \$50 billion, and that is why I am wondering what the time frames are.

11:40

Mr. Rider: Looking at the Canada Trust corporate quarterly report statement, I checked quickly with my office when I saw those figures come out. Ours is assets under administration for Canada Trustco, and it was stated at \$51 billion, compared to a pro forma of \$49 billion the previous year. This is from the Canada Trust report; so I assume the previous presentation probably did not include the merged company.

Mr. McFadden: That is fine. They were taking Canada Trust prior to the merger.

Mr. Rider: I think so.

Mr. McFadden: One of the issues you have raised in your report is the relative thinness of our equity market. It seems to me that a lot of our major public companies, certainly to an extent greater than in the United States, are controlled by small numbers of shareholders, if not by one dominant shareholder. The figures I have seen indicate that the major US public companies have far broader shareholdings than the Canadian major companies in our market, the Toronto Stock Exchange and the other Canadian markets.

I am curious. We are looking currently at concentration within financial institutions. You mention in your brief that our mandate was determined by the Treasurer (Mr. Nixon). I do not want to play on the terminology. Actually, he suggested we look at this, and we are doing so. Committees of the Legislature actually decide what they want to look at and go on from there. What we have chosen to do to get this into bite-sized chunks is to look at the financial services sector first. We will be looking at other sectors as time passes, but since the trust companies legislation is currently under review, we thought it made sense to look at financial services up front.

Our previous witnesses--and I know you heard them--talked about the whole area of closely held companies versus companies that have a major shareholder but in which the major shareholder does not hold more than 50 per cent, right to the bank models, where no one shareholder holds, in general, more than 10 per cent.

I am curious to know what impact there might be on share prices and on the values of companies if the province or the federal government were to bring in a requirement that no shareholder could own, for example, more than 30 per cent or 50 per cent of any trust company, in view of the fact that today virtually every trust company has a dominant shareholder who owns, in the case of a lot of them, well in excess of 50 per cent. What effect would it have on the composite 300 if a lot of shares suddenly came on the market by legislative requirement?

Ms. Laroque: That is very speculative. I would prefer to comment on what is happening now, and so far we are not familiar with any lessening of liquidity as a result of mergers and acquisitions that are taking place now in Canada.

I would also come back to the point about thinness. You mentioned that we have very thin markets. As you probably are aware, the TSE likes to refer

to its market as a very highly liquid market. We recognize that Canada has a special feature, that we have some closely held corporations and a very small group of powerful families in corporations. This is why the index, which is the Canadian market indicator, uses the definition of "flow," which is taking out the control blocks. Thus, although we have what you have called a thin market, I would argue that we have made corrections for that and that, given the fact that there are some closely held corporations, we still have a fairly active and highly liquid market.

Mr. McFadden: I appreciate why you have done that in your indexing. It is useful for the purpose of developing the index.

Ms. Larocque: Yes.

Mr. McFadden: It is a bit illusory in the sense that you still have shareholders who own 50 per cent or more of a lot of companies, and you have taken them out. If they suddenly decide to exit for one reason or another, then they have to come back into the equation. I appreciate what you are doing and I understand the economic justification for it in your developing an index.

The question I would like to raise concerns the desire to build in more players. If I may zero in on financial institutions, we are constantly stuck, on the one hand, with the concern to maintain the financial integrity of financial institutions; on the other hand, it seems desirable that we should have more players. It gives the market more liquidity. As well, there is probably the need for more competition in some areas, although Royal Trust has made a very good point that, in fact, there is pretty fair competition overall.

What programs has the Toronto Stock Exchange in effect now to encourage people to come in? I know you have a junior listing started and so on.

Ms. Larocque: For additional companies to become listed?

Mr. McFadden: Yes. There may be a difference of opinion about whether we have enough, but let us say competition is a desirable goal. We should have more trust companies. We now have a proposal for the Loan and Trust Corporations Act that companies have a minimum capitalization of \$10 million or more. That may or may not be a desirable goal in the sense that it could discourage regional companies from opening a facility.

Given the thrust of the legislation, do you feel the rules of the stock exchange could be in any way amended or enhanced to encourage these kinds of companies to list and get into operation? My worry right now is that if the new requirements come in, very few people will ever be able to afford to go into the trust company area, as they have done. I am curious to know whether there is anything that can be done by the stock exchange to encourage these companies to get up and launched.

Ms. Larocque: Stock groups?

Mr. McFadden: Yes. Essentially, I am worried that nobody will start, because \$10 million for an individual is too much. The question is how you launch yourself. I am curious to know what the stock exchange could do to encourage the development of new trust companies or other financial institutions to keep competition in the market.

Ms. Larocque: I guess there are two parts to the answer. The first part is what the exchange can do in terms of its regulation, given what it can do and is allowed to do. There are different programs for listing requirements. We have added more flexibility over the years to try to encourage smaller companies to go public.

We have a program to inform potential companies how to go about selecting an underwriter, that kind of thing. There is also the--

Ms. Nightingale: The exchange offering prospectus.

Ms. Larocque: --the EOP, the exchange offering prospectus, which helps smaller companies go public. There is also the listing requirement.

There is a lot that needs to be and is starting to be done from the investor's point of view. If the public, Canadians and Ontarians, are made aware that stock investment is one way of investing their money and that it is not always a loser over the long term--you can make comparisons between investing your funds in stocks, bonds or whatever, but there are certain ways the government, from the tax legislation point of view, could encourage Canadians to buy stocks.

You are probably familiar with the Quebec stock savings plan. There has been tremendous growth of companies and smaller firms going public in Quebec due to the Quebec stock savings plan, because people are encouraged to invest in the market.

In Ontario there is ESOP, the employee share ownership plan, which was put in the budget recently. It will encourage employees and make them aware of stock investments. It will also help firms increase their equity financing. ESOP has other benefits, but that is one way of helping smaller firms. The program is designed to help smaller firms raising equity capital and going public.

11:50

Mr. McFadden: Do you advocate potentially the Quebec model as one way to get additional participation?

Ms. Larocque: That certainly would be one way of getting more individuals participating in the market. The way you could design the program might be, if you are interested in smaller firms, to give greater tax incentives geared to investment in smaller firms. That is one possibility. You asked what can be done to increase the number of listings. There are two things. The exchange has been looking at making further refinements to its listing standards. Then more firms the exchange feels are appropriate can be listed. There are also quite a few tax incentives that should be considered.

Mr. McFadden: That was just my concern. If we are going to have competition, we have to encourage more companies to get on the market, and one way is come on the stock exchange. If an individual has a tough time setting up a trust company, maybe the public could participate in it, provided it was properly run and had management in place to be able to go.

Ms. Larocque: Right.

Mr. Ferraro: Ms. Larocque, could you tell me what involvement or responsibility, if any, the Toronto Stock Exchange has when you start talking about insider trading? Are you mandated to report that or is that done by the Ontario Securities Commission?

Ms. Larocque: I want to add that at the exchange we have regulations.

Mr. Ferraro: For employees?

Ms. Larocque: For employees and also for the public at large.

Mr. Ferraro: I am referring to the public at large.

Mr. Rider: That would be in the OSC's jurisdiction.

Mr. Ferraro: You do not have any responsibility even to report?

Mr. Rider: To receive reports from the public or--

Mr. Ferraro: To report insider trading. That is done by the Ontario Securities Commission?

Mr. Rider: Right.

Mr. Ferraro: Okay. I notice when you figure out your index, you divide by 3,000 essentially, or bring it down to 3,000, and say today it stands at 3,000. Does it fluctuate up?

Ms. Larocque: You mean the base, the denominator?

Mr. Ferraro: Yes.

Mr. Rider: The denominator is not at 3,000. In the statement, that was what the index is trading at today.

Mr. Ferraro: I see.

Ms. Larocque: It is the level currently.

Mr. Rider: The average fluctuation I would estimate at about 10 points, but obviously it varies. You probably recall last week's downtrend.

Mr. Haggerty: I want to go to page 2 of your brief this morning, where you say: "I would like to emphasize that the Toronto Stock Exchange holds no official position on corporate concentration. As Canada's largest stock exchange, we see our primary responsibility as the provision of an efficient capital market."

I was thinking about the rumours that take place on the Toronto Stock Exchange, in particular the recent one related to the attempted takeover of the Canadian Tire Corp. The rumours were that some of the other big corporate giants were trying to take it over. I think your process is more than just to say you have no interest in it. You do have a policy in that area that you can hold back the sales that day of the--

Ms. Larocque: There are regulations and there are concerns that if something is proposed, the exchange staff will review it. There is a group that reviews certain proposals. Given regulations, they will have to make

recommendations. When we state here that we have no official position in terms of the whole review of corporate concentration and the impact it can have on our economy, I think that is slightly different to what you are referring to.

Mr. Haggerty: I guess you can flag a certain questionable takeover on the market. One way is that you can cease trading on that day in that stock.

Ms. Larocque: Yes, because of certain regulations as to price--

Mr. Haggerty: There is a safety precaution in there until you have a chance to review what has taken place, and even the buyers who are--

Ms. Larocque: This is a self-regulatory organization. We would flag or stop trading because of unusual trading practices.

Mr. Haggerty: How often does that occur in the market in the Toronto Stock Exchange? Is it quite a frequent matter or concern in everyday trading?

Mr. Rider: We have a department that watches this. The reason for the halts during a day is to permit full disclosure so the public is fully aware of it, thus to prevent insider trading basically. The frequency varies. Maybe half a dozen or a dozen times a year actual halts are called, but we have somebody in our halt department consistently watching the market for that.

Mr. Haggerty: In other words, this is where you can control insider trading.

Mr. Rider: This is one method to monitor unusual trading, but we delve deeper to find out why. What might actually occur is that we go to the company and make them make an announcement saying there are no anomalies for it; it is just market taking place.

Mr. Haggerty: But rumours can generate an activity on the board.

Mr. Rider: Yes, they can. That is why we go to the company to tell them to squelch all rumours.

Mr. Mackenzie: I have two questions; one I am not sure is really yours. If I can go back to the figures we discussed at the beginning, I have a little difficulty with the Royal Trustco's table 2 on page 4 of its report in terms of the size of the group. It has Canada Trust at \$21.5 billion and Royal Trustco at \$13.5 billion. To my way of adding, that is \$35 billion; yet the figures you show us have them at \$50 billion. I remember somebody getting skewed on a "what's a million?" deal, but that is only \$15 billion. Can you tell us where the difference is?

Ms. Larocque: I can only talk on behalf of our own figures. As Steve mentioned earlier, these figures were taken from the--

Mr. Rider: Report. I have a direct quote out of the report, and this is where we got it. It says, "Assets under administration, as measured by book value, were increased to \$51 billion for the Canada Trustco," and that was out of a report from Canada Trust.

Mr. Mackenzie: It is a hell of a difference.

Mr. McFadden: What was the question?

Mr. Mackenzie: I just cannot understand how the listing in the Royal Trust presentation, table 2, showing \$21.5 billion for Canada Trust and \$13.5 billion for Royal Trustco, how the new merged group is now at \$50 billion plus.

Mr. Ashe: Is that not explained by the words you just read, "under administration." That would include pension funds under administration, which would not come under the capital assets side of the company in any event.

Mr. Rider: I do not have the figures to verify that.

Miss Stephenson: It was suggested that Royal Trustco administered \$5 billion worth of pension funds but they did not include that in their assets.

Mr. Mackenzie: If you added that \$5 billion, you would still come to a \$10 billion difference.

Miss Stephenson: Canada Permanent must have had a significant amount. The thing we do not know is the date at which those figures were developed. If they were before the merger of Canada Permanent, then we can understand why their figures are lower than those in--

Mr. Mackenzie: Table 2 was at December 1985, according to something we got from Royal Trust.

Interjections.

Ms. Larocque: One thing is to go back and check the figures.

Mr. Mackenzie: It may not be a major point. I am just curious to know the assets.

Mr. Chairman: I am wondering if we should invite Royal Trustco to peruse our transcript that we are preparing right now and clarify it with us in perhaps a written memo.

Mr. Mackenzie: It is not \$1 billion--

Mr. Larocque: What we can do is simply provide you with our source of information, and if you can obtain the source of information with the Royal Trustco, you will be able to compare the figures.

Mr. Mackenzie: What disturbs me a little bit--not that I am a player on the market, because I am not--is the extent to which, it seems to me, the market gets skewed a bit by a takeover--35 points difference in the market as a result of takeovers. Is this not a concern at all to the market?

Mr. Rider: The Toronto Stock Exchange 300 composite index is set up to monitor stock price activity on the market. Right now, yearly events would be mergers, and we monitor that within our price range as well, because the public benefits and does not benefit from them.

Mr. Mackenzie: You could have ended up a loser, as you said in your comments, strictly not at all based on the performance of the stocks you are investing in.

Ms. Larocque: It is based on what is happening in Canadian confidence in the market. Merger is one of the components and one of the variables that affects stock prices and shares outstanding. It is taken into account through the index level.

12:00

Miss Stephenson: The rationale for the merger might have something to do with determining whether or not it benefits anyone.

The question I have is simple. I believe we heard the representatives of Royal Trustco Ltd. tell us that any major modification to the size of the major shareholder component within a trust company in this province would have a very damaging impact upon the equity situation for companies in Canada since, according to them, the companies obviously would not have as many assets and therefore the amounts of their equity holdings would be reduced.

As objective observers, since you do not have anything to do with either trust companies or banks or with anybody else but you do look at what is happening in terms of their shares within the stock market, has that been borne out anywhere that you are aware of? If there is a reduction in the size of major shareholders in any one of the financial institutions has that had a damaging effect on the availability of capital for Canadian companies or for companies within the jurisdiction?

Ms. Larocque: So far we have not witnessed any lessening of liquidity due to these kinds of mergers or acquisitions.

Miss Stephenson: You are looking at it from the opposite direction because there has not been any limitation so far. I guess I am asking you to look at other jurisdictions. I do not know whether there are other jurisdictions where there has been a restriction on that and whether there has been that kind of impact, because I guess I can understand their fears. I do not know if they are well grounded or not, that is all.

Ms. Larocque: I find it very difficult to answer.

Miss Stephenson: One of the things we do not want to do is decrease the amount of capital available for investment in Canada.

Ms. Larocque: We have not studied the issue in depth at this point so I cannot answer this question.

Mr. McFadden: Just to follow up on what Mr. Mackenzie raised. I do not know if you have looked at this or not. In respect of the wave of mergers and acquisitions over the last couple of years, in terms of the small shareholders--the person who makes up this index--do they in general seem to have benefited from higher share prices? Have they wound up about even or have they lost in the value of their shares? I am talking about the small shareholders.

Ms. Larocque: If you look at the index level overall, on a long-term basis we have to look at the rate of return on the portfolio base on the TSE 300. I would have to say that rate of return has been greater than the rate of return on other types of investment which cannot be due only to mergers or acquisition. We have not separated that component so, again, I cannot answer this question. If you look at the rate of return overall, return on stocks has been greater than the return on other types of investment, whether it is due

to economic conditions, to profits or to many things, including mergers and acquisitions, I suppose.

So just to say that one went up and the other one went down, at this point we cannot separate each component.

Mr. Mackenzie: Would it not be reasonable to expect, though, that there probably should be a better return? That would never be my argument because I think there are offsetting factors such as jobs, competition, the whole works, but normally one would expect a slightly better rate for those people who have invested in any of these mergers.

Mr. Rider: If you are investing in the market you probably would see a better return. The only time you would get hurt in this type of thing would be if you are shorting the stock or selling stock you do not have. That is very unlikely for the small investor to do. It is a very advanced method of investing. Generally, in the marketplace, you probably would more than likely benefit.

Ms. Larocque: If your portfolio is well diversified and you cover almost every stock, then if there is a merger you might have that stock. Otherwise, with small investors--

Mr. McFadden: Hit and miss.

Ms. Larocque: Exactly. It depends, is the answer.

Mr. McFadden: If you get a hot merger going on you bid up. I suppose the small investors benefit in the sense that, particularly if you have some competition going on, the small investors have the benefit of all the competition if they hold and see their share prices go up 20 per cent, 30 per cent or 50 per cent in a matter of a few weeks.

The question I would throw out is on the problems that are created. I know this is a little beyond your purview, but problems are created for the companies after all this has occurred and companies that have tried to repel takeovers may wind up taking on debt that is unhealthy, or companies have levered themselves to an unhealthy extent to acquire the company they are after and then suddenly find themselves burdened with debt or assets they have to dispose of because they need some liquidity.

I know that is beyond your purview, except certain requirements. One of the things that struck me that may be somewhat unhealthy is the ability of some companies to get involved in very expensive acquisitions, totally borrowing the money to do it. It seems to me you are heading back to the type of situation we had in the 1920s where people totally levered acquisitions. Public companies, particularly, become the problem because they totally lever it using bank financing. If the acquisition starts to drop, then you get into the Dime problem where they actually prejudice and endanger the small shareholder who suddenly finds that the leveraging and all the bank financing that went into it is jeopardizing his position. I know the exchange does not have any rules that deal with this particularly, but I think the real danger we are running into now is that the companies have levered so many acquisitions that we could have severe problems if there is a major reverse economically.

Miss Stephenson: Would that be an exchange responsibility?

Mr. McFadden: I am not sure it is the exchange's responsibility.

Miss Stephenson: It might be the commission's responsibility, would it not?

Ms. Larocque: Yes.

Mr. McFadden: Maybe that is something we should ask the chairman this afternoon, but that is a worry.

Ms. Larocque: Is the chairman of the Ontario Securities Commission speaking this afternoon?

Mr. Chairman: He will be here.

Mr. McFadden: I do not not know whether that is a worry of yours, but it seems to me that the proliferation of leverage buyouts is a worry and it has become epidemic.

Ms. Larocque: The only precaution is that committee members should not look only at the stock price increase but also beyond that.

Miss Stephenson: The actual behaviour thereafter.

Ms. Larocque: That is right. That is the whole picture.

Mr. Chairman: Thank you very much. Your presentation has been very helpful. I hope we can count on you if we need you to assist us more some time in the future.

Ms. Larocque: Yes, you may. It would be our pleasure.

Mr. Mackenzie: I have one final question on this. I presume it is available somewhere. Do we have relatively up-to-date information on the number of Canadian shareholders on the stock exchange and the percentage of how much stock they hold? Are these figures available?

Ms. Larocque: For the companies, we have an estimate of the incidence of share ownership in Canada. A survey was done in the fall of 1983 and at the time it was 11.4 per cent, including British Columbia Resources Investment Co. holders. We are currently doing an update and we will have an estimate of the incidence of share ownerships by the end of the year.

Mr. Mackenzie: You will not have that until the end of the year.

Ms. Larocque: The end of November is what we are looking at.

Mr. Mackenzie: I would be interested in getting the share ownership update as soon as it is available.

Ms. Larocque: We can provide you with the report that is currently available. When we get the update, we will make sure you get a copy.

Miss Stephenson: It will be useful as well to have comparative figures for two or three other major free market countries in order to see this.

Mr. Mackenzie: That would be helpful if we could get it.

Ms. Larocque: We can provide you with some of those figures. Shall we send the information to Mr. Mackenzie?

Mr. Chairman: Thank you very much. We look forward to receiving that information. Members of the committee, Mr. Bond has been doing a little looking around to try to figure out what the Royal Trustco figure means. He has handed me an article from the Globe and Mail Report on Business which points out that Trilon has \$15.1 billion in assets but \$65.1 billion under administration, and then you have some other figures there.

Mr. Bond: I do not think those figures presented by the Toronto Stock Exchange can be correct. I have here the December 1985 figures from Canada Trust and they show exactly what Royal Trust showed in terms of assets under administration.

Mr. Chairman: Where is that coming from?

Mr. Bond: This is from the Report on Business, Globe and Mail.

Mr. Chairman: July 1986.

Mr. Bond: July 1986. If anyone is interested, I can--

Miss Stephenson: We should try to determine where they got theirs and what the composition is.

Mr. Chairman: If the committee would like, I or the clerk can make contact with them again to clarify some of their figures.

Miss Stephenson: Would someone please have this clarified?

Mr. Chairman: All right. We will see you all at two o'clock.

The committee recessed at 12:12 p.m.

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Publications

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

TUESDAY, SEPTEMBER 23, 1986

Afternoon Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Stephenson, B. M. (York Mills PC)

Ward, C. C. (Wentworth North L)

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Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witnesses:

From the Ontario Securities Commission:

Beck, S. M., Chairman

Pascutto, E., Director, Ontario Securities

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday, September 23, 1986

The committee resumed at 2:05 p.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: We have with us this afternoon Stanley M. Beck, chairman, Ontario Securities Commission. I understand you have a few opening words and then you will entertain questions. Go ahead.

ONTARIO SECURITIES COMMISSION

Mr. Beck: I thought the most helpful thing for the committee in terms of its look at financial institutions was perhaps to outline very briefly the change that is under way in the securities industry because, after all, that is something over which the province has direct jurisdiction and it is an area where the rules are being changed. There have been many committee reports. I am sure you have had to plough your way through many of those that said this ought to be done and that ought to be done. This is one of the few areas, if not the only one in Canada--and the Loan and Trust Corporations Act in Ontario is another--where we are actually making the changes as a result of a report published in 1985 by the Ontario Securities Commission.

Perhaps I could back up for a moment to say that in 1971 the government, while looking at a number of what were then called key sectors of the Canadian economy--and the federal government was looking at these areas too in terms of the areas over which it had jurisdiction--announced that for the securities industry, foreign ownership would be confined to what was called the 10/25 rule; that is, any one foreign dealer could own only 10 per cent of an Ontario registrant and in the aggregate more than one foreign dealer could own 25 per cent. It really only reduced the 10 per cent rule because you do not get joint ventures in securities dealers. That became the rule in 1971.

There were a number of foreign dealers at that time and they were grandfathered under the legislation, but their growth was limited to the average rate of growth of the major Canadian dealers; so it was very limited. In fact, there were some 26 grandfathered firms at that date. The result today is that there are only four left and only one of any considerable size. That is Merrill Lynch Canada Inc. Just to put some perspective on Merrill Lynch's size, its regulatory capital today would be in the order of \$55 million, whereas the largest Canadian firm, Dominion Securities, after its public issue last week, has capital of \$250 million. That gives you some perspective. I suppose Merrill Lynch's \$55 million of capital would rank it probably seventh or eighth among the Ontario registrants in terms of capital.

With respect to domestic financial institutions, one has to deal also with the Bank Act, which is federal legislation. The Bank Act limits chartered banks to not more than a 10 per cent holding in another Canadian corporation. The Bank Act on the federal level limited Canadian banks to a 10 per cent holding in a securities dealer.

Apart from the Bank Act, in terms of insurance companies or trust companies owning a percentage interest in a Canadian dealer, there is nothing in the Ontario Securities Act to limit such ownership. But the rules of what we call the SRO, that is the self-regulatory organizations--primarily the Toronto Stock Exchange and the Investment Dealers Association of Canada--also impose a 10 per cent limit. When one looks at foreign and domestic ownership, both financial and nonfinancial, one is really looking at a 10 per cent level, which was really not very high. Those were and are the rules.

On the other hand, the reality is that financial markets have become international. That is one reality. The telecommunications revolution means that financing is no longer a domestic matter. A corporate treasurer scans the world for the best rates and the best deal. When we say "scan the world," in effect, it means pushing a button and calling up on a screen what the best deal is today in yen, deutsche marks or the Eurobond market. International dealers call on the domestic issuers all the time and offer their services, as they are allowed to do, because it is primarily an offshore transaction. That is a very difficult thing to control even if one wanted to.

14:10

Of course it is not only domestic corporate issuers, but also it is domestic governments. When Ontario Hydro finances, it looks around the world for the best deal. Today Ontario Hydro finances in the yen bond market in Japan and finances in the Euro-Canadian market in Europe or it will do what we call a US dollar pay deal. It will finance in the United States. If it finances in Japan, it will do so through Daiwa, Nikko or Nomura. If it finances in the United Kingdom or in the Eurobond market, it may use Credit Suisse, First Boston, Salomon Brothers, Morgan Stanley or it may use Wood Gundy, a domestic registrant, but it will look to where it feels it gets the best service and the best deal on a worldwide basis.

If it is concerned about an interest rate risk or a currency risk, there has grown up what has come to be known as the swap market where you can exchange your risk in currency with a counterparty who wants to change into dollars and the same with in between floating and fixed interest rates. I hope no one asks me to explain how the swap market works, but it does work. In three years it has grown into a \$200-billion market. These securities are swapped all the time.

Mr. Mackenzie: Sort of hedging your bet so to speak.

Mr. Beck: Yes. It is not so much hedging, because you are making an absolute exchange from fixed to floating or from yen to US dollars or yen to Canadian dollars. It costs you a little something, but not nearly as much as what the currency risk would be or staying in a fixed instrument would be.

Hedging is another part of it. You do not mind so much the risk you are going to take because the financial futures market has grown so large that you can hedge or you can hedge the currency risk. If you are exposed in US dollars and you think, as a smart treasurer might have a year ago, that the US dollar was going to go down, then what you could do is buy a forward contract. You could sell dollars or buy dollars and the same in yen or deutsche marks, so that you can run a perfect hedge almost.

It costs you a quarter, half a point, or whatever, to buy foreign exchange, but you are protected against significant currency risks, and

currency risks are significant. For instance, we know the American dollar relative to the yen has dropped about 40 per cent in less than a year. That makes the interest rate exposure in a risk look minimal. Currency risks are a real risk today, but you can hedge those risks.

The other thing that has happened to make an international market is that the barriers have broken down between what we in Canada call the four pillars, the banks, the trust companies, the insurance companies and the securities dealers. Because of the volatility of money around the world and the ease of international dealing, banks no longer make the greater part of their income on what we call the spread, that is, the spread between what they pay a depositor to take in the money and what they get on lending the money out.

That is the traditional way banks have made money and the traditional way that corporations have financed. They have gone and knocked on the door of their friendly banker. Now, whether it is for \$10,000, \$10 million or \$100 million, one goes to the bank, but what we have today is what is called securitization of debt and the bank is just playing an intermediation function. You no longer go to the bank, because you can do a lot better by going to capital markets directly. The banks simply act as an intermediary. To put it graphically, you can do better by going into the Euromarket and borrowing \$50 million and using the swap market, if you want, or hedging than you can by going to the bank directly and say, "Lend me \$50 million," and they will charge you a point or a point and a quarter above prime rate.

According to a recent address I heard by the head of Citibank in London, the rate for prime corporate credits is now one sixteenth of a point over the London interbank borrowing rate. That is the rate the banks charge among themselves. Banks will go broke very quickly lending money at a sixteenth above the London interbank borrowing rate. They do not want to do that business any more. They are in the securities business. They are intermediaries. Their competition today around the world are the major security houses, whether it is Salomon Brothers in New York, Nomura Securities in Japan or Warburg in the United Kingdom.

Mr. Ferraro: Are there fixed and floating rates in Europe?

Mr. Beck: Oh sure, yes.

Mr. Ferraro: Which one is predominate now? Floating?

Mr. Beck: I would say floating, yes. Euronotes, a note issuance facility, is becoming very--

Mr. Ferraro: What do they float at in proportion to?

Mr. Beck: It depends on the currency in which you are talking, the interest rates.

Mr. Ferraro: They are not geared to the Bank of Canada. They do their own.

Mr. Beck: That is right. There has been a very great breakdown, therefore, between the barriers. Everybody wants to play in everybody's backyard and everybody wants fee income rather than what you make on the spread. The same thing has happened in Canada in different directions. When

the Bank Act was amended in the 1960s, the banks were allowed into the mortgage business in Canada for the first time and the trust companies into the commercial lending market. That is not quite the word I want.

Mr. Ferraro: Consumer lending.

Mr. Beck: Yes, into the consumer lending market. The result today is that the banks have more than 50 per cent of the mortgage market in Canada and more than 60 per cent of the consumer lending market and have moved away from the IACs, as they used to be in this country. At the same time, the trust companies are into the deposit business and into the commercial lending business. They want that level raised and the new Ontario act is raising it. The trust companies are into the bank business. The bank is into the trust company business. They are both into the securities business, so there is not all that much left among the four pillars.

The same is true with the insurance companies. The insurance companies want to sell mutual funds today because not all that many people, or at least those who are ill-advised, are buying whole life any more. They want variable instruments which vary with the ups and downs of the market of interest rates. Insurance companies are training their salesmen and registering them with us as mutual fund dealers.

The insurance companies are also very active in the private placement market as takers of that debt and they want to own securities firms directly. This is all sort of a long-winded background to the 1985 OSC report which, in effect, said we have to open up the domestic market because the reality today is the international markets. If Toronto is to take its place as a major international market, which it ought to be, then we have to open up this market.

There are two ways to go. One is to do what is happening in London, which is known as the big bang, which takes place on October 17 when all the rules come off, and any bank, any insurance company, any trust company or any foreign dealer can go into London and start a business. They have done away with fixed commissions. We did away with fixed commissions almost seven or eight years ago now and they had a distinction between jobbers and brokers which we never had. It is an open international market and it has meant dramatic change in that market.

Banks are very major owners of securities dealers now as are insurance companies. There is nothing to stop a major UK corporation or indeed any corporation around the world from getting into the securities business, if it wishes, and buying a securities firm. It is a completely open situation.

We felt that would be the wrong thing for the Ontario industry and, in effect, the Canadian industry, given our size, particularly relative to our very large neighbour and the very much greater size of the American firms.

14:20

There is also another important point about the structure of the Canadian industry, and that is that the big six A banks--there used to be only five; now I suppose there are six--form a very large economic unit in this country with their some 7,000 branches right across the country. They have always been a powerful economic force in this country. One really has to consider whether it would be the best thing from an economic point of view to

integrate underwriting completely with commercial lending in terms of the banks, but that also applies to the trust companies and the insurance companies.

The result is the compromises that were set out in the report and that the Minister of Financial Institutions announced as government policy on June 12 with instructions to the Ontario Securities Commission to consult with the industry, draft the regulations and have the new scheme in effect by January 1. We have been spending a long, wet summer drafting those regulations in an attempt to do that.

What the rules are essentially is that foreign firms can come in in one of two ways. They can buy 30 per cent of a domestic dealer with no limitations on that domestic dealer. That is one way to come in: take a 30 per cent position.

A second way is to come in directly and register. That is, Salomon Brothers, New York, can come in and register as Salomon Brothers, Ontario, as a wholly owned subsidiary. However, that class of foreign registrant, what we call the foreign dealer registrant, will be limited to 30 per cent of the total domestic industry capital. Thus, if the capital of the domestic industry, including what the foreigners would bring on what we call a grossed-up basis, will be approximately \$2 billion on January 1, the foreign dealers will be allocated \$600 million, and any one foreign dealer would be entitled to only 1.5 per cent of the total. Thus, if the total is \$2 billion, any one foreign dealer will be allocated only \$30 million of regulatory capital.

That is to be contrasted with Dominion Securities having \$250 million of capital and the top five or six Canadian firms having between \$100 million and \$250 million. The foreigners will be limited initially to \$30 million each when they come in. They can come in that route directly with a capital limit; they can come in owning 30 per cent of a domestic dealer with no capital limit on the domestic dealer.

That leaves only the domestic financial institutions and domestic others, as we call them, others being other than financial institutions. The rule for financial institutions is to be, again, 30 per cent ownership of a domestic dealer, although when Mr. Kwinter made his announcement, he said he would be willing to consider raising the level somewhat above the 30 per cent figure so as to give the Canadian firms a leg up over the American entrants. That is still on the table.

Mr. Ferraro: Can they buy into only one?

Mr. Beck: Yes, into only one. That is still on the table, and the minister is awaiting the recommendation from both the OSC committee and the Investment Dealers Association committee, with which it is working. When we finish the draft regulations, we will present a recommendation to the minister about whether that figure ought to be lifted above 30 per cent.

That applies to A banks. B banks will be limited to 30 per cent. It is only the A banks that would get more than 30 per cent, if that is the decision. It is the same for Canadian trust companies and Canadian life insurance companies.

That leaves the domestic others: Bell Canada Enterprises, Canadian Pacific, whatever. The thinking at the moment is that they will be allowed the same amount as the Canadian financial institutions; that is, if it turns out that it is 30 per cent or 40 per cent for Canadian financial institutions, then that will be the figure for the Canadian others, the nonfinancial institutions, in terms of keeping some control on the mix between what has come to be known as the real and the financial and having that sort of sawoff.

Thus, it is in some ways bringing the pillars together, but it is only recognizing what is happening in any event both domestically and around the world. I thought I would give that picture, that background, of where we are in restructuring the securities industry in Ontario, and therefore effectively in Canada, because Toronto is very much the centre of the Canadian capital market. I thought I would use the background as a point of departure for any questions members of the committee may have.

Mr. Ferraro: I have two questions. Specifically, how do you think they came up with 30 per cent, to begin with?

Mr. Beck: We felt there had to be an opening significant enough to be attractive to those who wished to invest but something that would be less than ultimate control right at the beginning. The argument can always be made that in certain situations 30 per cent will be controlled. I would not dispute that; it might in certain situations. On the other hand, in many situations it will not be. We tried to reach a figure that would be a real opening, that would be attractive to the investors, but that would not automatically cede control initially as the market opens up.

Mr. Ferraro: My other question has two parts. Could you comment on the Ontario Securities Commission's responsibility to inform and regulate insider trading? Second, what penalties or vehicles do you have at your disposal when you find an anomaly? When you find something wrong, what repercussions can ensue to the culprit?

Mr. Beck: Ontario was a leader in enacting rules against insider trading when what I call the first modern securities act in Canada came into force in Ontario in 1968. It was a leader in defining insiders and requiring them to report their transactions on a monthly basis and requiring the report to be published in a public document, the Ontario Securities Commission bulletin, which is published monthly. All insiders, as defined, have to report.

Mr. Ferraro: Subsequent to their trading.

Mr. Beck: Yes. They have to report within 10 days after the end of the month of the trade. My director is here and can correct me if I am wrong.

Mr. Ferraro: Why would you not have that done before?

Mr. Beck: Prior to the trade?

Mr. Ferraro: Yes; confidential permission or something.

Mr. Beck: I am not sure what we would do with that information or whether it is very practical to have that kind of regime. Do not forget there are thousands of insiders; it is a broad definition.

Mr. Ferraro: With a certain level.

Mr. Beck: You might have a certain level.

Mr. Ferraro: Let me ask another question on that. When you have found something wrong with insider trading, what benefit is there to the general public to know it after the fact?

Mr. Beck: It is very hard to set a rule beforehand to catch someone who wants to break the law.

Miss Stephenson: There is in fact a rule regarding insider trading.

Mr. Beck: That is right.

Miss Stephenson: All brokers are supposed to follow it.

Mr. Beck: There is both civil and criminal liability to the person on the other side of the trade. It is a statutory crime, what we call a provincial crime. I believe you can go to jail for up to two years and receive a fine of, what, \$25,000?

Mr. Pascutto: It is \$2,000 for individuals and \$25,000 for companies.

Mr. Beck: Anybody who wants to break the law is not going to come and tell you beforehand, regardless of the kind of theft.

Miss Stephenson: Second-storey men do not usually tell you when they are going to rob the house.

Mr. Beck: That is right. They are not going to knock on the door and let you know, nor is an inside trader.

You try to have a reporting system. This has to be seen with complete audit trails that are required for all trades on the Toronto Stock Exchange. One can track down trades and find out what actually happened. People can look at a monthly bulletin to see who has traded and trace it. We can begin an investigation if something does not look right to us. We have the power to bring an action on behalf of an aggrieved shareholder on our own for civil remedies, for damages that have been sustained as a result of the trade, and to bring a case to court and ask for a criminal penalty, either a fine or a jail sentence. We do have quite a complete regulatory structure in place for insider trading.

14:30

The other side, a more difficult side, is actually to catch people and prosecute them, and we have found that to be a very difficult case. We finished one major investigation recently; we have another major investigation under way as a result of a recent major takeover bid. But you are talking about tracking through thousands of trades and options trading that is going on. We are co-operating with the Toronto Stock Exchange--or, more accurately, they are co-operating with us--in restructuring some of their computer programs so we can try to throw up this kind of information. We have beefed up our investigation staff and we hope to be a better policeman in the future.

Mr. Ferraro: I understand what you are saying about how second-storey men are not going to tell you in advance that they are going to knock off your place, but I am dubious. To some degree it is like closing the barn door after the horses are out. I just wonder, is there no intermediary step

there? In other words, you can make the trade, but the actual equity would not transfer, even if you had to pay interest on the equity, until such time as the OSC made a judgement. Would that not make more sense?

Mr. Beck: I do not think that is going to catch any more people, because those who are setting up--

Mr. Ferraro: You are not going to find the guy in Switzerland, I can tell you that, if his bucks are still here.

Mr. Beck: We are taking some steps to find the guy in Switzerland. The Securities and Exchange Commission is ahead of us in that in terms of its agreements with the Swiss authorities and getting the Swiss to make insider trading a crime so you can get the information; but if somebody wants to hide his insider trading, I do not think those kinds of devices are going to be particularly effective.

The thing that will be effective is the kind of computer program we have been talking about, the co-operation with the exchanges and the dealers, so that all those trades are thrown up and you can begin to trace through where they are taking place. We think that is the effective way to do it, and to up the penalties.

Of course, the most effective thing in almost all crime is to catch one or two people and--

Mr. Ferraro: Crucify them.

Mr. Beck: --impose the penalty. I would prefer to say that.

Mr. Ferraro: It is a figure of speech.

Mr. Beck: That is the most effective prophylactic there is, and we are trying to be more effective in that area.

Miss Stephenson: Would you have the same sort of difficulty they are having in the United States right at the moment; that is, debating who gets the windfall when someone is caught and the money is collected? Do you get it or does the income tax department get it? Is that going to be a major problem?

Mr. Beck: If it is a criminal penalty, I presume it goes to the Treasurer, the general coffers; if it is a civil penalty, it goes to the person who is suing on the other side.

In negotiated settlements, which are the best way to go--and there have been negotiated settlements, not necessarily on insider trading but in other areas where we negotiate a settlement--we can direct that shareholders be paid, or if they come to us and can prove they were trading in that period, we see that they are recompensed. That is what we did in the Union Enterprises and Unicorp Canada deal, where we reached a \$7-million settlement and shareholders were paid. That is what the SEC often does. That is the most effective settlement for the little shareholders and seeing that they get something on the other side.

Again, I could not agree more. To catch some person and have him sent to jail, even if only for a short term, is the most effective deterrent, but it is hard to get these people.

Mr. Mackenzie: Are the fines seen as significant, \$2,000 or \$25,000? To me they are not.

Mr. Beck: We did catch one individual, and the court fined him \$250. That is out of our hands.

Mr. Haggerty: He was back in business the next day, was he?

Mr. Beck: That is right.

Interjection: Who says crime does not pay?

Mr. Beck: We wring our hands in despair, but that has happened.

Mr. Mackenzie: It sounds to me like almost a licence. Is that one of the things they take a look at?

Mr. Beck: I do not know whether the individual concerned would see it that way. We would hope that if we had a major case, it would be taken much more seriously than that, and we certainly would make a major point.

Mr. Chairman: Once he is convicted, is there any further way you can control him because he is convicted?

Mr. Beck: Yes. It may be that we can rule him offside from ever engaging in trading again in Ontario if we think the offence is bad enough. If he wishes to be part of a financing in Ontario, either directly or indirectly connected with a firm that is filing a prospectus to do a financing, we can rule that financing offside.

Mr. Ferraro: So he goes to Montreal.

Mr. Beck: Well.

Mr. Ferraro: You do not have anything national?

Mr. Beck: Yes, we do. We communicate nationally. It is possible. For us to rule somebody offside or unacceptable, he does not have to have committed an offence in Ontario. If we knew someone was guilty of a major fraud in Alberta and then he came here three years later to do a financing, the financing might be regarded as unacceptable as long as that person was connected with it. Do you want to add anything to this? This is Ermanno Pascutto, director of the commission.

Mr. Chairman: Perhaps you will come up and sit at the microphone and be recorded for posterity.

Mr. Pascutto: As to what is outstanding in terms of questions about the adequacy of legislation, that is one of the areas we are working on. We now are working on reviewing the Securities Act as a whole. One of the key areas we will be looking at is insider trading provisions, the adequacy of the penalties both criminal and civil for insider trading. The \$2,000 and \$25,000 fine provisions were introduced in the 1960s, and they are out of date in terms of the morality of the marketplace today. In the US, they provide for treble damages in insider trading cases, and that is something we should examine with a view to making some recommendations to the government and to the Legislature.

Mr. Ferraro: The only other question I have is, how is the price of a seat on the stock exchange determined? I should not be asking you that.

Mr. Beck: The price of a seat on the stock exchange is a marketable commodity. It is what a willing buyer will pay a seller for a seat.

Mr. Chairman: It is in six figures, I presume.

Mr. Beck: No. It is below that.

Mr. Pascutto: It is approximately \$45,000 at present.

Mr. McFadden: I wonder whether we can zero in a little on the subject the committee is particularly concerned with, the impact of concentration of ownership in the financial services area. Listening to your remarks, I gather the thrust of what you are saying is that as the whole market internationalizes, the logic of this is to push us towards larger units. Evidently, that is happening. It is quite clear from reading the research material we have received as part of this committee and the reading experience we have all had. We can see it going on.

We have also heard about the dangers of concentration of ownership. I take it what you are suggesting, and I am not trying to put any words in your mouth, is that the trend in all the financial markets is forcing us towards larger units and that we do not have a lot of options, certainly in the securities industry. Is that fairly accurate?

Mr. Beck: I think that is accurate. It is the logic of what is happening internationally. A major financial market such as Toronto cannot insulate itself from that. If it tries to insulate itself from that, it will become a regional backwater in terms of international markets. Two things can happen: it will become a regional backwater or it will lose the business to another market that will internationalize and wants the business. In Canadian terms, that is Montreal. There are those two possibilities.

What is happening around the world because of internationalization, as I have said, is a breakdown of the traditional barriers, particularly between banks and securities dealers and a move to very large size. It requires a lot of money to have the technological capacity to be able to trade around the world and to be a principal rather than an agent, a traditional trader. To be a principal means to be able to take on the position in stocks or bonds yourself, and that requires a great deal of money.

Size is not necessarily coextensive or synonymous with concentration, because although what we are talking about here will lead to some rationalization in the Canadian securities industry and to some coming together of banks and securities dealers, at the same time you are opening the market. You are going to have a much more competitive market than you had before, even though you have larger, world-class players; it is going to be very competitive. It is a mistake to think that size equals concentration. If one looks at the Canadian financial sector today, regardless of the fact that one has a Brascan, a Power Corp. and a Crownx, a case can be made that it is one of the most competitive sectors in all of Canada.

14:40

The introduction of the B banks has made banking very competitive. There is a terrific battle going on between the banks and the trust companies for

the depositor's dollar and for the mortgage business. It is the same with life insurance companies selling new and different products to the consumer. The Canadian consumer has profited and benefited enormously from what has happened in the Canadian financial community. He has never had a better deal on mortgages, on prepayment, on his savings account and on the new kinds of instruments that are being devised for him.

In the good old days of just five Canadian banks that controlled the then sleepy trust companies, the Canadian consumer and depositor did not have it nearly as good as he has in today's era of so-called concentration and larger units. It is very important to distinguish between size and concentration as such. The Canadian financial market today is extremely competitive and to the benefit of the little guy, of consumers and corporate issuers.

Mr. McFadden: To follow up on one point you made, there is a proposal that I guess came originally from Montreal about creating an international banking centre there. Now I gather Vancouver is pushing for consideration for that. I assume Toronto wants to be considered in the same league. Are you of the view that should be a priority in terms of the province, that if any cities are to be designated, Toronto should be one of them? Is it accurate to say you would favour that?

Mr. Beck: Yes, if any cities are to be designated. I am not sure I see the need for it in Canadian terms. It does not make sense in terms of where financial markets are centred today to favour Montreal over Toronto. That would be an uneconomic decision that would artificially force business to Montreal.

Mr. Ferraro: All the action is in Toronto.

Mr. Beck: That is right. The action is here.

Mr. McFadden: It would be quite bizarre for someone looking at Canada if it had three. In Britain there is London, Manchester and Edinburgh. Various countries all over Europe have three and four financial centres. I cannot think of any countries that--

Miss Stephenson: It is like having a Mirabel.

Mr. McFadden: Given the size of our country, it would almost verge on the bizarre to have three when we are facing such fierce competition from Tokyo, New York and London.

Mr. Beck: I agree. I do not see it happening because it would take co-ordination of federal tax policy with provincial tax policy. I cannot conceive that federal tax policy will pay for Montreal and discriminate against Toronto. I cannot see that as a national policy.

Mr. Ferraro: You have to be kidding.

Mr. Beck: I do not think it will happen that way. I hope not.

Miss Stephenson: It is a new era. It is not the old era.

Mr. Ferraro: That is what I am afraid of.

Mr. McFadden: One final area I would like to probe is a matter that has raised some concern, and that is the area of competition. When the Deputy Minister of Financial Institutions was here, he said the priority of government in the regulatory area is not to encourage competition but rather to maintain the integrity of the system. That is a valid goal for regulators; it is fundamental.

The logic of the amendments to the Loan and Trust Corporations Act is probably to make it very difficult for new trust companies to be created, given that their capitalization has to be 10 times greater. It will be tougher for regional companies to get launched. I do not know an easy way around that. It seems to me--and I agree with your sentiments--that the trust companies went into an aggressive period in the 1960s and on through the 1970s and really helped the consumer both in terms of the average person for his deposit money, for mortgages and everything else and in terms of some commercial lenders, some developers and so on who wanted mortgage money.

Can you conceive any way in which the securities laws could be adjusted to make investing in trust companies a more attractive proposition, some way in which this could be encouraged so the concept of regional companies could be maintained, given the fact that we want to increase the minimum capitalization levels? What worries me is that a small businessman or a group of them will have trouble raising that \$10 million in cash.

Mr. Beck: And be blocked from forming a new trust company.

Mr. McFadden: I do not have an answer. I am just curious about whether you have any suggestions that could even be considered that would assist the forming of pools of capital on a regional level and enable the regions to keep developing trust companies which might fit their particular areas, which I think this current policy might work against.

Mr. Beck: I do not, just offhand. That is a very difficult question, setting the securities rules that might make it easier to raise capital that way. Our experience in encouraging the raising of capital, whether it is in the trust company area or in the natural resources area or almost any other, indicates to us that usually the single most effective thing is some form of tax incentive. That seems to work more than anything else, because when one begins to talk about easing the securities laws one is talking about less disclosure, some sort of lesser document, less ongoing disclosure. We do that for junior resource companies, and today we are heavily involved in looking at that whole sector. Whether that would be wise policy in the financial sector, I do not know; I have not thought that through. I think I would have some concerns about it.

Mr. McFadden: That is the logic of what the stock exchange represents. I mentioned this morning that the tax policy will probably be the best route to go. I just wanted to get your view on it, if you could think of any creative thing we could do. You are basically opting for tax policy as well.

Mr. Beck: Right; I am. I suppose it is really the root question. Some smaller regional trust companies have been quite good and innovative. On the other hand, they are a source of problems, of troubles. I understand your desire. There is the other side of the coin. I would want to think that one through.

Mr. Ferraro: Is there not just as big a roadblock, if I can refer to it in context, in trying to get the mandate of the trust companies? In other

words, unless you have the expertise and unless you can prove to the securities commissioner, and indeed to the Ontario government, that there is a specific need for that, is that not every bit as great an obstacle as accumulating the necessary capital? Quite frankly, in my understanding, accumulating the capital is not as difficult as getting past the other roadblocks.

Mr. Beck: I do not know whether you have to show any particular expertise in starting a trust company. If you have the capital and the individuals, I believe you can. There might be others who can answer that. Is there any particular roadblock to starting a trust company?

Mr. McFadden: I know you have to show some capability or experience as part of your team.

Mr. Beck: Yes. You would have to have on your team some who have experience and capability. I do not think there would be any question about that. However, that is usually available for those who wish--

Miss Stephenson: It would be foolish to try to start one without some expertise.

Mr. Beck: That is right.

Mr. Ferraro: Not at all. I understood from some individuals and corporations that were thinking about starting that the biggest difficulty was to prove to whomever or to the government, not only that you were competent but also that there was a need for it. In other words, if you said you wanted to go to northern Ontario because they were not looking after the people in northern Ontario well enough, your chances would be a hell of a lot better than saying you wanted to go to Toronto.

Mr. Beck: Frankly, I would have to check the act. I do not know whether there is that kind of discretion in the registrar.

Mr. Pascutto: It certainly would not be a securities requirement.

Mr. Beck: It would not be a securities requirement. We do not make those kinds of judgements. We have enough problems.

14:50

Miss Stephenson: I have one question, which arises out of curiosity. Is the rate of insider trading a major problem for the commission at present, or does it vary?

Mr. Beck: I think it varies; it is hard to know.

Miss Stephenson: Are there more pirates one decade than another?

Mr. Beck: It is hard to know. The Canadian consciousness is always informed by what we read in American publications, and a lot of insider trading has gone on in New York, given the more dynamic atmosphere in some ways, to use a neutral word, in the arbitrage community that has grown up there. I do not think we have those kinds of problems; I do not think there has been evidence of that, and it would have surfaced by now if we did. I am not saying there is not insider trading, but I do not think it is of the same magnitude or proportion.

Miss Stephenson: Second, the proposal which I gather you are putting forward related to the participation of financial institutions in the development of securities corporations, or registrants within the purview of the commission, is precisely the same as that which you would apply to nonfinancial institutions. Am I being hypersensitive when I feel that nonfinancial institutions have greater potential for manipulating or using inappropriately the role they might have within a securities corporation than a financial institution, or is it true naïveté to suggest that they are equally--

Mr. Beck: No, I do not think it is naïveté. You are in very good company. There are many people, and senior financial people, who hold that view. Frankly, it is not one that I hold. The possibilities for self-dealing as between securities firms and other financial institutions, or securities firms and nonfinancial institutions, are much more limited than they are between other financial institutions, particularly those of a lending kind, whether it is a trust company or a bank and a nonfinancial institution.

After all, securities firms do only two things. They only trade securities, or they underwrite. Those are both highly visible. When you are underwriting, you have to sell to a market with full disclosure. Those things are pretty easy to control in terms of self-dealing. We are drafting the rules now for exactly that kind of visibility and disclosure. So I do not think there is nearly the concern with respect to the nonfinancial sector owning a securities dealer.

Miss Stephenson: So that within the securities area this is not potentially the problem it might be in other financial areas?

Mr. Beck: That is my view. But I want to say quickly--

Miss Stephenson: Is that biased, do you suppose?

Mr. Beck: --that others hold a different view. We are one of the only countries I can think of in the developed world that would say to one sector of the economy, "If you need capital, we foreclose you from getting it from another sector of your economy because we are so worried about self-dealing between you." It seems to me that when one characterizes it that way, it is inappropriate for a country that is as developed as this one. That is almost a central American policy, in my view.

A lot of nonsense has been talked about the mix between the real and the financial and the concerns about self-dealing. After all, the great Canadian concern has always been about shortage of capital to develop our Canadian institutions. Now we are saying to elements of the financial industry, "You cannot have access to pools of Canadian capital," because somehow there is a danger in having access to Bell Canada's capital or CPR's capital. That is an argument I do not buy. But I am probably in a minority these days, because it has become an emotional sort of argument. It needs a good deal of analysis.

Miss Stephenson: As you say, the argument has been fed primarily by very dramatic narratives which emanate chiefly south of the border, and everyone does become somewhat coloured in his thinking about it.

Mr. McFadden: Plus the recent problems with Seaway, Greymac, CCB and Northland have blown all this up.

Mr. Beck: But it is no different here from what has happened in the United States, or in the United Kingdom with the Lloyd's scandal. Every

country will always have its dramatic financial frauds. But you should not set broad, national economic policy on the basis of the single fraud or on the basis of anecdotal evidence. I worry that is happening too much in this country today.

Miss Stephenson: Would you agree that it is inappropriate to attempt to draft legislation to look after the very dynamic and visible pirates who arrive about once a century, because we would probably suppress the potential for growth within this country if we attempted to do that?

Mr. Beck: Yes, I agree very much with that.

Mr. Foulds: Which pirates are you talking about?

Miss Stephenson: There is one whom I think you know very well whose name you have mentioned several times--not his name but his cousin's, who comes from David's area. James, you are out of it today.

Mr. Chairman: Any further questions?

Mr. Ferraro: One question. Mr. Beck, could you comment or make a very general statement? In the past 10 or 15 years, one of the pillars, the life companies, essentially is out of consumer lending. I am not saying there is not enough competition among the trust companies and banks now, but I am talking about mortgages specifically. They were never in consumer loans, and maybe they are not allowed to be. Basically, my understanding is that insurance companies are into the bigger stuff. They might share in a \$50-million mortgage or something like that, for a piece of the action. Did their attitudes change purely as a corporate strategy, or did the government's restrictions not entice them to stay in the consumer lending field?

Mr. Beck: I am not very well informed on that. I did not even know that the insurance companies--were they ever in the consumer lending field?

Mr. Ferraro: Through mortgages they were, quite heavily.

Mr. Beck: Through mortgages.

Mr. Ferraro: Fifteen or 20 years ago. You used to be able to get 25-year term mortgages.

Mr. Beck: I do not know the answer to that, unless again it was the change in the Bank Act and the inability to compete head on with the banks. The big-ticket lending is the more profitable; it is easier to do. They are very active in that and want to make sure under these rule changes we are doing that they stay in that business. We have no intention of changing that, because they are major financiers of the economy.

Mr. Ferraro: There is one other question I just thought of, and it goes back to something you said earlier. I totally agree that the schedule B banks have saved consumers billions of dollars. I will draw my own analogy here. In Guelph, for example, or even in the smaller communities in parts of this province, you still have access to only five major banks and, if you are lucky, two trust companies. Is there any move afoot to give schedule B banks more exposure in that regard? In other words, it is fine in Toronto; Toronto is almost an entity unto itself. If you go to a small town, the manager of the Toronto-Dominion knows you as well as the manager of the Royal Bank, and these guys have beers together and you cannot get a free lunch from anybody except the Salvation Army.

Mr. McFadden: I think it would be accurate to say the same thing about the Bank of Commerce.

Mr. Ferraro: I am sure they do.

Mr. Beck: That is really a question for the federal government, in terms of bank policy. Someone who may know can correct me, but I believe the schedule B banks are limited to six retail branches.

Mr. Ferraro: And usually in Toronto--

Mr. Beck: As I understand it, Citibank is the only one that has started that. I have seen two or three in Toronto. Whether they are planning some for other major centres, I do not know. They are the only B bank I know of that has gone into retail banking. I believe six is the number--I could be wrong, but it is a very limited number--and that is federal policy to preserve the retail banking area for the A banks.

Of course, the rise of the large trust companies and their very aggressive deposit taking and mortgage lending has probably changed things in those communities. It is not just your friendly banker any more; Royal Trust or Canada Trust are there and are very competitive. That has been healthy.

15:00

Mr. Chairman: What are the roles of the merchant banks in securities underwriting?

Mr. Beck: The most difficult thing in the world is to define a merchant bank. They are advisers, they themselves find money and act as agents, and they themselves will take a position in securities. They are really backup or ancillary. Merchant banks do not usually underwrite directly or trade directly with the public, but they can play a very important role in facilitating that for an issuer.

Mr. Chairman: Do you control them?

Mr. Beck: We will be controlling them to an extent under the new rules. Part of what we are doing is moving to what we call a universal registration system; that is, all those who are engaged in securities activities will have to be registered with us in one way or another. It might not be the full panoply of registration that applies to a full-service dealer, but it will be registration that is appropriate to their level of activity.

Miss Stephenson: Is the blue line functioning at present?

Mr. Beck: Yes, it is functioning.

Miss Stephenson: You are responsible for that area of function, are you not?

Mr. Beck: Yes.

Miss Stephenson: Under what rules?

Mr. Beck: What sort of constitutional authority? We say they are there in the securities business. It does not make any difference if it is a bank or if it is going to offer a securities business or trading function to

the public; they have to be registered with us and we have to be satisfied of the competency of those who are offering the service, and the trades have to be put through a full-service dealer.

Miss Stephenson: Has that role shown any great deal of expansion for a few years?

Mr. Beck: I do not believe so. I do not think it has been hugely successful. It is growing, but quite slowly. How hard the Toronto-Dominion Bank has pushed it, I do not know. I do not get the impression they have pushed that hard. The Royal Bank has announced recently that it is going to go into discount brokerage.

Miss Stephenson: Is that the blue bank, the blue line?

Mr. Beck: I do not know; it might be. They have been very quiet since they made the announcement, which is almost six months ago now.

Interjection.

Miss Stephenson: No. It has to be the blue one because the maroon one has to be the Bank of Montreal.

Mr. Chairman: Are there any other questions? I appreciate very much your coming here and imparting a fair amount of knowledge to us. Obviously, this is a difficult question for some of us to grasp. I hope we can count on your continued help if we have to come back to you.

Mr. Beck: I will be pleased to offer any help I can or to come back.

Mr. McFadden: I had Mr. Beck teaching tax law back in 1968-69, and he speaks with the same precision and erudition as back then at Osgoode.

Mr. Chairman: He has not changed at all.

Mr. Beck: There are only certain things for which I can be held responsible. I also had the pleasure of teaching the chairman, actually, at Queen's University.

Mr. Chairman: Before we break we have some housekeeping matters. We do not have a vice-chairman at the moment, and I thought it might be appropriate to--

Mr. Haggerty: We have got enough vice around here.

Mr. Chairman: We have enough vice around. We are learning all about vice. But it might be appropriate, especially with the chairman--for one thing, I will not be able to be here tomorrow at 10 o'clock; I will be coming late. I would like someone to move that we elect a vice-chairman.

Mr. Haggerty: I move that the member from Wellington South be nominated as vice-chairman.

Interjections.

Mr. Chairman: It means you have to be here at 10 o'clock tomorrow morning.

Motion agreed to.

The committee adjourned at 3:05 p.m.

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

WEDNESDAY, SEPTEMBER 24, 1986

Morning Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Stephenson, B. M. (York Mills PC)

Ward, C. C. (Wentworth North L)

Substitution:

Morin-Strom, K. (Sault Ste. Marie NDP) for Mr. Mackenzie

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witnesses:

From Brascan Ltd.:

Eyton, J. T., President and Chief Executive Officer

Yeoman, R., Vice-President, Corporate Development

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Wednesday, September 24, 1986

The committee met at 10:15 a.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

The Vice-Chairman: Ladies and gentlemen, maybe we can get the deliberations under way. The chairman, David Cooke, fully intends to be here, although somewhat late.

Let me initially, on behalf of the committee, welcome Mr. Eyton to the committee. Certainly, anyone who reads the newspapers or magazines is familiar with J. Trevor Eyton. Let me as well, on behalf of Ontario, thank you very much for attending without any remuneration. I am not sure we could not afford your salary. For the benefit of the committee, Mr. Eyton will initially make a short--very informal, I suspect--statement and then open it up for questions. Mr. Eyton, I wonder as well whether you might introduce your associate.

BRASCAN LTD.

Mr. Eyton: Thank you, Mr. Chairman and members. We are pleased to be here, and I am happy that I am not being paid anything. It seems to me I spend much of my time these days working for nothing, and I am happy to be here this morning.

Mr. Ashe: When do we get the violins?

Mr. Eyton: I feel badly about it, even if you do not.

I understand Mike Cornelissen and the Royal Trustco people appeared here yesterday. I do not have a formal presentation. Bob Yeoman, my associate at Brascan, who is vice-president of corporate development, and I are here. I thought I would lead off with just a few remarks and then open myself up to questioning. I may from time time confer with my colleague if it is something I cannot answer out of my own knowledge.

First, I have read the Royal Trust paper and the presentation given by Michael Cornelissen yesterday and I endorse that. It does represent and is built on business principles we have within our group. The facts, the principles, the arguments, the submissions and the conclusion are things I can wholeheartedly support.

Second, I want to emphasize one of his major points, that is, the competitiveness in Canada, particularly as it relates to financial institutions. Mr. Cornelissen in his paper talked about relative size, and he measured relative size in world terms where, by any measure, I think our institutions are smaller and in some cases very small. He went on to measure in relative size domestically our domestic markets. Again, it is quite clear that in relative size, in terms of the companies within our group, they in every case represent very small percentages of the various markets in which they participate.

I throw in an addendum there, that surely the appropriate measure to take is the particular market that they are talking about, whether it is the mortgage business, the deposit business or any one of the other businesses carried on by the financial services business here in Canada and, more particularly, in Ontario. In every case, it is exceedingly competitive, both from the international and national groups. Every product and every service itself is exceedingly competitive. The rate of change is extreme, and indeed the only way in which our companies can compete effectively is to develop new product, develop better services and to get those out to the Canadian consumers effectively, efficiently and at a very good cost.

It is a market that measures itself really not even day by day but hour by hour. You have to be on the money. There is no question whatever that the Canadian consumers and Ontarians are well served by the financial services industry, the financial institutions, here in the province. They have many more services today than they had just a few years ago and at better cost. I think it is a result of the competitiveness and, in particular, it is a result of new interest in the field, both internationally and with the revitalized trust companies which have come along in recent years and all the other competitors in the field.

10:20

Third, I want to stress my personal conviction that a major shareholder brings significant values to any company. I know we are speaking here about financial institutions, but I will make it a broad principle. A major shareholder is always beneficial to a corporation or a business.

That applies in our case. I can speak, of course, with best authority about our own involvement. From the evidence and from the record, it is clear that our presence in the many companies we have been involved in over the years has always been beneficial. It has always made management more accountable. It has always allowed them to invest more in research and development, in capital expenditures of one kind or another and in the marketing, in effect, making them better than they were before.

Part of that, I think, is due to the business principles we developed long before the current debate on Canadian financial institutions. Our business principles have been baggage for us for about 12 or 13 years, and our business principles were really developed, given the nature of our own talents and abilities. In one way or another, those business principles are reflected in the presentation Royal Trust made yesterday.

The first business principle is that we believe in widely held public companies. This goes back 10 or 12 years. We defined this to mean that our shareholding should be 50 per cent or less of the public companies in which we are invested. Putting it another way, the public should be our partner and should own 50 per cent or more of the companies in which we are invested.

We believe in effective shareholder representation. It may sound trite. I know there are many boards populated by many directors who, on the face of it, are seen to be independent directors, and sometimes are. But it will not be a surprise to anybody that very often public boards have not operated as effectively as they could. In fact, the board acts as a kind of servant to the chief executive officer and the management of the companies they serve. Their appointments quite often have more to do with a customer relationship, a supplier relationship or a friendly relationship with some of the other

members of the board--the chairman, the chief executive officer and so on--and those do not work very well.

Part of ensuring that we have appropriate shareholder representation and truly independent directors is a value of instilling cumulative voting in our companies. I will give you an example. Cumulative voting is a process whereby a five per cent shareholder in a public company with 20 directors--i.e., each director in a way represents five per cent of the shareholdings--can always ensure that he can nominate a director to a board. That is the first principle. In our companies we introduce cumulative voting.

We go beyond that to look for major shareholders. Whether they are hostile or not, we would like them to come to the board table, sit with us and do two things: perform as directors and take on the responsibilities that all directors have, including the representatives of the major shareholder; and second, monitor the major shareholder and make sure the major shareholder is acting honestly, fairly and in the best interests of the company. By "company," I mean the company in all its constituents. That includes the employees, the communities where they are involved, shareholders, suppliers, customers, financiers, everybody.

We have brought a special pressure to bear on the directors, whom we see as independent directors. We insist that they be independent and we give them lots of timely information. Our presentations within the group of companies are full and they make an effort to understand the presentations and the issues that are involved and to give it a truly independent review and approval.

As a subpart to that, we have never inflicted a majority decision on any of our boards or on any of the managements we are involved with. We operate on the principle that if we cannot, it does not make sense. If we cannot sell it as a worthwhile idea that is good for the company and all its constituents, then it should not be done. We may retreat and come back again, fix it up and make sure it is a little better, but we do not inflict majority decisions on either our managements, which are autonomous, or on the boards, which are comprised in the way I have described.

I was talking about the role of the major shareholders. As I say, I see it as always a positive influence. I suppose the exception is if you are wicked, criminal or badly motivated, then perhaps not. But as I say with the majority shareholder represented and with truly independent, hardworking, informed directors, you have a check and balance that ensures that is not going to happen.

That brings me around to the point that the 10 per cent ownership limits or other ownership limits, the percentage limits that have been suggested now and then by various people and by some of the committees that have looked at the question over the last several years, do not go to the issue, are not effective and, if applied retroactively to us, are simply unfair.

I want to remind you that the first ownership limit applied as far as I know in the financial institutions business was in our chartered banks. That 10 per cent limit was introduced and had nothing whatever to do with conflicts. A very senior Canadian banker once told me he had played a very important part in bringing about the 10 per cent ownership limit. He had gone to Ottawa and been at the forefront of the fight for that legislative amendment, and it was there really to protect the managements of the banks from changing control.

In particular, there was some threat that foreign banks, particularly some based in the US, were going to or wanted to increase their ownership interest and therefore their voice in some of our Canadian banks. He characterized the 10 per cent ownership limit as one that might be good for bankers but not necessarily for banks.

I think that catches the flavour of that 10 per cent limit. Basically, it is irrelevant to the issues you are discussing. Most recently, the Blenkarn committee in Ottawa recommended a range of ownership where the greater the size of the assets controlled, the lower the permitted ownership limit. It got down to a 10 per cent ownership limit.

I will go back a little in history now. For more than 10 years, we have had a 20 per cent interest in what is now the Continental Bank. At the time we made the investment, the Continental Bank was a finance company, in fact, the leading finance company in the country. We made the investment, thinking we were buying into the premier finance company. It was only after we made our investment that management and the other directors, not including our nominees because we were neutral on the subject--neutral to negative, I suppose would be a better description--decided to convert to a bank. It was a small bank and it was a different kind of competition. Going from the best finance company to one of the smaller banks represented--

10:30

The Vice-Chairman: Is that IAC?

Mr. Eyton: Yes. It represented a whole new culture, a whole new set of competitors and it was tough sledding.

What we found is that we had a 20 per cent stake in a finance company which, because we were there before it became a bank, we were permitted to keep. We were not particularly enthusiastic about it, but I can tell you that we were urged by the regulatory authorities in Ottawa and by the management of the Continental Bank to keep our stake. They wanted us there and they wanted us there as a sponsor. In the years since then, it has run into some problems that they have managed very well, but in every case we were urged to hold our investment. In fact, I think it is fair to say our nominees played an important role in the bank to make sure that it carried on, met its responsibilities, that it was competitive and it carried on a proper banking business.

That is a long-winded way of saying that in our experience, and the situation would apply exactly in a situation like Royal Trust, the major shareholder, who we think is important, is the sponsor and has the major responsibility for ensuring the success and ongoing viability of the enterprise. At the same time, we come to that, saying in a company of that size and of that importance, and I am talking now of Royal Trust, we should limit our shareholding to 50 per cent or less and the public should be an owner of 50 per cent or more of the company. That way the check and balance will work.

However, in doing that, we limit the upside potential, the investment potential, to only 50 per cent of the good stuff. In effect, Royal Trust performs exceedingly well and Royal Trustco today is the best performing financial institution in the country. When it performs well, it means that we have made a major commitment in people, money and effort, but we get only 50 per cent of the upside.

On the other hand, if Royal Trust went badly, and here I draw on our experience at the IAC Continental Bank, when things go badly, you get 100 per cent of the downside. We can live with that. We can say, "Heck, 50 per cent is at least a partnership." There are lots of other good reasons why 50 per cent is suitable. It makes it a widely held public company, and that gives it many benefits in terms of autonomy, better management, profile, marketing, financing, all sorts of things; so that 50 per cent is okay.

We can live with 50 per cent of the upside and 100 per cent of the downside, but particularly when you attempt to do it retroactively, I can tell you we would not live with a game plan where we are the major shareholder and we have 10 per cent or 20 per cent of the upside and 100 per cent of the downside. There are just better things to do. You recognize the major commitment we have made in people, money and just general effort to make sure that Royal Trustco was, as it is today, the best performing financial institution in the country.

I guess you all know we have been at Royal Trustco for a little more than four years now. There is no question that four and five years ago Royal Trustco had lost its way. It was not keeping up. It was not competitive. Morale was low. Employee dissatisfaction was high. It was losing customers to the hot competitors coming on and offering them new products and services. All that has changed because of the major commitment. So I say, especially retroactively but in any event, we would not be prepared to maintain that kind of interest, support and sponsorship to ensure that kind of performance and that kind of delivery to the Canadian public in circumstances where we had 20 per cent of the upside and 100 per cent of the downside because, as I say, that is the way it works. In the real world, that is how it works.

I was mentioning just a couple of our business principles. The others I will refer to quickly, because my few words seem to be enlarging themselves.

The others I will refer to are management accountability--and that comes about because of a balance on our boards of major shareholder directors and independent directors--and a demand that we have quality information going to the board in a timely way. Again, that often is not the case in Canadian companies, even in larger Canadian public companies.

Generally, the directors' role is to participate in major strategic initiatives and to contribute to succession planning and the selection of senior managements. That means getting good people and making sure there is a real placement. If your chief executive is not working properly, the board has the responsibility to make sure he is replaced with someone who can perform.

I want to say that our success over the years has come about because of the quality of the companies in the group now--they did not necessarily have that quality when we got them--and, in particular, the quality of the managements. We think we have a collection of chief executive officers who are autonomous. They run their shows, their operations. We think they are equal to any group anywhere in the country.

You may be interested to know that Mike Cornelissen was in the group. He was number two at Trizec Corp., our major real estate company. He was drafted by all the directors at Royal Trustco. In fact, the suggestion that he come as chief executive officer was made by one of the independent directors. I am a little reluctant to confess that it was neither my idea nor that of any of my colleagues. The directors knew Michael Cornelissen because he was on the board. They saw the quality and they wanted him to come. We saw the wisdom in it and supported it, and his record is truly exceptional.

Going back to the directors' role in the strategic initiatives, succession planning and selection of senior managements, importantly, it is assessing management's performance against realistic business plans and fairly rewarding special performance. That again is somewhat unusual. We require a strategic long-term plan and a business plan each year. We measure the directors' performance against the plan and, of course, against the performance of their peers in the industry.

Our cash compensations are low by industry standards, but we force our senior managers to own a lot of stock in the companies they manage, and they have to buy it. They have to be at risk on the thing. Mike Cornelissen has more than \$2 million worth of Royal Trust stock, but he had to buy it. There were no fancy options. He has the stock and he has performed well. He has done well, and God bless him for it, but so have the other shareholders. Had it gone badly, it would have impacted on Mike. God knows what would have happened to him, because it was a lot of money for him to owe when the obligation was incurred.

Last, we consider it the director's job to safeguard shareholders' equity interest. That is something that does not always apply. For example, it does not always apply in some of the major chartered banks in Canada, which are widely held and where there is nobody specifically looking after shareholder interest. A measure of that may be the market assessment. The market is awfully good at looking at shares and their value.

Here is another fact for you: Royal Trustco shares traded in the market at about three times book value. Five or six of the chartered banks in Canada--we are talking now about the major banks--trade at less than book value. I will ask you a question. Why is it that Royal Trustco shares trade at something like three times the basic price of the shares of the chartered banks? I think one of the reasons is our concern for shareholder values, and with it the implications for ongoing good financial health for our financial institutions.

10:40

I have talked to you about what I think of as the positive side, the good side. I recognize that in businesses, in the widely held public companies in particular, you have to play according to certain rules. You have to be fair and you have to be seen to be fair. One of things you have to ensure is that the major shareholder does not take advantage of his position as major shareholder. That especially applies to financial institutions.

I have mentioned the role of independent directors and the heat we put on them to perform as true independents. Beyond that--and again, I am happy to say, preceding this debate on financial institutions and their proper governance here in Canada--we developed the concept of the business conduct review committees, originally for our financial institutions in the group. In the past year we have considered it such a good idea, and something that is reassuring, that we are introducing it now to all the companies in our group, so all the public companies will have independent directors who have a specific responsibility to monitor any transactions, any business that is done with that company and any of the other companies within the group. I do not mean to say it is a great mass of business, but even occasionally we thought it was a useful device to have.

I am sure Michael Cornelissen talked about the business conduct review committees. At Royal Trustco we started it about three years ago. I do not

claim it is perfect yet, but it is a long way along; it is probably at 75 or 80 per cent of potential. At the same time, I think it is light years ahead of any self-governance mechanism for other companies, including financial institutions, in this country.

The business conduct review committee looks at all related-party transactions; that is its responsibility. All its members are independent. They have their own legal counsel. They have direct access to the auditors of the company at call. They have the same kind of access to all the senior managers. They have the same kind of access to all the records of the company.

There are mechanisms within the company, including a mechanism in the investment committee, such that all transactions which fall within their purview are automatically referred there. They make their decision. As I say, it is an independent one. They can do it with people present or not. Ordinarily, no one else is; it is just the members of the committee. Their decision cannot be appealed. That is it; it is gone.

We are going beyond that. Next year in our annual reports we are including a section that is going to feature the business conduct review committee. We are going to picture them so they will be even more aware of their responsibility. We are going to include their charter; that is, what their function is. We are going to include a report on how they have discharged their responsibility and their functions for the year in question, and they are going to sign it off. In that sense, what we are doing is the same process I talked about before. We are forcing them to consider their independence and their responsibility.

More recently, and in answer to some of the queries and concerns of regulators, we have said--there was never any reservation about it on our part--that regulators could and should have direct access and perhaps direct reporting between business conduct review committees and the regulators. It seems sensible and doable.

We see no reason that the regulators could not in some way confirm or approve membership on the business conduct review committees. We see no reason that a regulator, at will, on a regular or random basis, could not sit in and listen to the deliberations and the decision-making of those committees. We see no reason that those committees should not, as a matter of course, provide minutes of their meetings to regulators so there is an ongoing information exchange, and we see no reason that those committees could not file those deliberations in some public place so they are open for public scrutiny and inspection.

I can report that the few regulators I have talked to about it have seen it as a positive from two points of view. First, they see the business conduct review committee and the members as a kind of addendum to their own office, one that is operating without public expense and does not cut into their budget. Second, they recognize that there are always limits to what regulators can do. You cannot have enough regulators with enough budget and enough time to cover every conceivable transaction, and the system I was describing of strict and tough self-governance was one that fitted nicely, as long as they were informed and had an opportunity to speak directly to members of the business conduct review committees.

It is working well at Royal Trustco, but it is not perfect yet. We are working on it. It is still a new concept. It was a concept that was specifically blessed by the Senate banking committee in its report. It has

been blessed by a number of the regulators I have talked to who have seen it as a way in which they can reconcile an ongoing major shareholder, which is a historic fact today, with the benefits that brings and the balance of independent directors and mechanisms where the independent directors could express themselves and monitor the related-party dealings that might occur within a group.

Those are my preliminary remarks. They went on far too long, but I believe them and I wanted you to hear them.

The Vice-Chairman: Thank you very much, Mr. Eyton. I know the committee enjoyed the informality of the way you presented it. I am sure it spurred many questions. I found it very interesting.

Miss Stephenson: Can you tell me whether you believe there is a direct relationship between size of the holding of the major shareholder and the effectiveness of the management which you say is induced by a major shareholder? I heard you suggest that a 10 per cent major shareholder would not be as effective, but you believe that at 50 per cent you are effective. Is there a cutoff point? Is there a direct relationship? Is there a way in which we can say there is an optimum situation?

Mr. Eyton: I was looking at it from an investor point of view as opposed to effectiveness: what percentage has an appropriate voice to make management accountable and better.

Miss Stephenson: If you are going to do that, give me a criterion of effectiveness.

Mr. Eyton: It is accountability--making management accountable. The trouble with widely held companies, for the most part, is that the chief executive officer is accountable to no one.

Miss Stephenson: It sounds like government.

Mr. Eyton: You said it.

Miss Stephenson: Except every four years, there is some chance for somebody to make a decision.

Mr. Foulds: Or every 42 years in this province.

Mr. Eyton: I will not get involved in that.

I do not mean to say that widely held companies are always badly managed, because some are well managed, but in my mind it is the accident of an exceptionally fine executive who challenges his board to perform properly. There is nothing like a vested interest of a major shareholder. If you have a large shareholder in a company, then you want to ensure that the investment delivers for you. The only way you can do that is to make sure you have the right kind of manager and there is the right kind of accountability.

Our major banks would have benefited from one or two major shareholders over the recent years. Some of the expansion, some of their lending practices, particularly some of their foreign loans where they were building assets and building size and measuring one another in an asset way, would have been more judicious or more careful had there been someone at risk. The difficulty was that, for the most part, the people making the decision had very few shares in the company they were managing. If you look at the shareholdings of the chief executives of our major banks, they are tiny.

10:50

Miss Stephenson: Is there not some morality or ethicality which we demand of directors that ensures they are going to be concerned about what they are doing?

Mr. Eyton: There is, but it takes more than going to four or six meetings a year as a director. You may be a good performing director, but you have to be challenged. For example, on a business conduct review committee, we recognize we are making them do a lot more work.

Miss Stephenson: Is that bad?

Mr. Eyton: We are going to have to pay them for it.

Miss Stephenson: Surely there is a responsibility of directorship which requires of the individual director a commitment to a balance of service as far as that role is concerned, and the service is to the function and effectiveness of the structure for which he or she is responsible.

Mr. Eyton: That is okay in theory, but I can tell you that where I represent a 40 per cent interest in a company, I can and must afford the time to make sure that 40 per cent is well managed. I can afford it to a far greater degree than an ordinary director who has no shares and represents very little investment; he has 100 shares or so. He is generally a chief executive or something of his own company. He has that corresponding responsibility somewhere else. He does not have the time. There is nothing quite like--

Miss Stephenson: Maybe you had better look at people who have some time then.

Mr. Eyton: Everybody is busy.

Miss Stephenson: Yes, everybody is busy. Tell me how many thoughtful, knowledgeable academics are members of boards of directors of any of the Edper group.

Miss Stephenson: Have you any idea?

Mr. Eyton: We have some, sure, and it is an increasing trend both within our group and without our group.

Miss Stephenson: How many women who have some responsibility in some direction are members of boards of directors?

Mr. Eyton: A fair number; and again there is an increasing trend both within our group and outside our group. It makes great sense. It is changing, but those women are very busy. Just because you get an academic, the academic is busy, and so are the women.

Miss Stephenson: You do not accept that responsibility, however, if you feel you cannot discharge it.

Mr. Eyton: It is more a matter of time and concern. Being an effective director, according to the usual rules, means you go to six or seven meetings a year and you prepare for those. You read your material and you prepare for them, but you cannot spend the amount of time to understand what is going on week to week and month to month. To justify that in economic terms

and to set aside the management time, there is nothing quite like self-interest, to say: "I have \$100 million invested there. I have to be sure it is okay."

Miss Stephenson: It is a great motivator, but it is not the only motivator. That is one of the problems.

Mr. Eyton: I do not say it is the only motivator. There are exceptions. There are widely held companies that operate well and where the board works well. But if you want a guarantee, give me somebody with a significant investment relative to his net worth and he is going to be there and working hard and seeing the investment is well managed.

Mr. Yeoman: I was with the old Brascan when it was widely held. Obviously, I am still with the new Brascan, but as a controlling shareholder. From my experience, when that controlling shareholder comes on board, to use a phrase, there is a tightening in the organization. I say "tightening." A symptom of the tightening might be less use of consultants and more use of your own skills. We would not rule out consultants now, but more is expected to be done by an employee himself instead of engaging a consultant to do work that could legitimately be the responsibility of that person. The individuals develop more of their natural talents.

This has been my experience of having a controlling shareholder and not having a controlling shareholder, if that adds something to the discussion.

Miss Stephenson: Personal experience is always useful in terms of example. I agree there is nothing quite like vested interest to ensure a very high motivation and I know a little about vested interest. However, I have to tell you that around this place vested interest is a dirty word and one does not use it with any degree of levity or even with any major degree of lack of concern for the activity that is involved.

What I am trying to find out is, you say that 10 per cent is not enough and you think 50 per cent is a reasonable amount. In between there must be a figure that appears to the public to be a bit less entirely in the self-interest of the major shareholder. I think that is what has been suggested in the past by those who have made presentations regarding the size of the holding of the major shareholder. Is that important? Is it simply the motivation that is inspired by being a major shareholder? If that is so, it seems to me that the amount does not necessarily follow. Mr. Eyton says it does because it depends on your personnel.

Mr. Eyton: That is from an investor point of view. We really come from the principle I talked about earlier; that is, our company should be widely held. Then we ask, "What does it take to be widely held?" For example, in our view a company that is owned 85 per cent by a single shareholder is not widely held. There is not enough constituency or enough public ownership to make it so.

Miss Stephenson: You would probably agree that there are some narrowly held or closely held institutions in the financial area that probably perform as well on behalf of shareholders and as well on behalf of the depositors, which has to be another concern of those who are responsible for these companies, as does yours.

Mr. Eyton: There are exceptions. I always think that is due to an exceptional chief executive who happens to be there. Sometimes he knows the right guy and he operates according to the same rules. All I am adding is another level of accountability. Managers have to be accountable to someone. Occasionally, you get an exceptional fellow who does not need that extra level of accountability, if you want, that insurance policy. In general terms, if you can make managers more accountable, you are safer and better regulated.

Miss Stephenson: I would think accountability was necessary in all situations whether--

Mr. Eyton: Except that chief executives without any stake in a company are not accountable to anybody. They only have to go home and look in the mirror.

Miss Stephenson: You make me absolutely petrified about ever considering investing in any company in Canada when you say that a widely held company has a chief executive officer who is never accountable to anybody.

Mr. Eyton: He is not accountable except to himself and perhaps his own management team. If they are splendid people, and many are, that is fine, but there is not that extra, if you want, insurance that someone is looking over his shoulder and saying, "I do not like the way things are going," or, "I differ on this, and why do you not hold up or go to this over here?" It is extra insurance. With really superb people, you do not need it, but when people get a little off the track, you do.

Miss Stephenson: Do you suppose it is a multiplication of my kind of apprehension that makes Canadians so reluctant to invest in Canadian business? You are not helping right at the moment. I hope you are going to say something shortly that is going to reassure me.

Mr. Eyton: No. What happens is that analysts look at whether the management is there, whether or not there is a major shareholder, and they make their judgements. Our companies have all done well. It has more to do with the managements than with us as a major shareholder, but we introduce another level of accountability. We believe that is beneficial, given the rules we operate under.

11:00

The Vice-Chairman: I do not want to interrupt this debate, but I am just wondering--

Miss Stephenson: That is all right. I just have one minor question and Mr. Eyton can probably answer this with yes, no, or two words. Sir, is it Brascan Ltd. or Brascan Holdings of which you are the chief Pooh-Bah? I am not really sure what I should call you, chief executive officer, chairman of the board or the--

The Vice-Chairman: President and chief executive.

Miss Stephenson: Thank you.

Mr. Eyton: Yes. I am president. The public company is Brascan Ltd. I am president of Brascan Holdings as well, but that is only the company that owns the major shareholding in Brascan Ltd.

Mr. Haggerty: I want to direct a question to Mr. Eyton. Looking at a flow chart of Edper Investment Ltd., there are about 400-odd companies affiliated with the large investment corporation. How many of these have been obtained through a takeover?

Mr. Eyton: I do not know. We might have to look at it and go down them individually. I am not sure what you mean by "takeover" as well. I will give you an example. Trizec was owned by an English property corporation. The principals came to us and said they had some concerns about the Canadian management. They felt remote based in London, England, and they wanted someone close to management to ensure their good performance. We negotiated with them an arrangement under which we, in effect, bought shares from them and we became partners, but we had control. We went into Trizec and assessed the management, made some changes and, of course, Trizec has been a star performer since then. Takeover engenders the impression in newspaper articles and--

Mr. Haggerty: A merger or takeover.

Mr. Eyton: In most of ours, we are greatly in favour of, if you want, friendly takeovers. We are disinclined very much to participate in hostile takeovers, simply because the price gets silly, the effect on the management is often horrendous, there is tremendous dislocation, there is an absence of continuity and all those things. So we have engaged in very few hostile takeovers.

The only one worth commenting on is at Brascan itself in 1979. We were successful in that. But even there, believing as we do in continuity, because it was vigorously contested and because a lot of allegations had been made by the incumbents that we thought were untrue, we insisted on having a majority of the board. It is very rare for us. Generally, we have a minority and often a very small minority on boards. In that case, we insisted on having 10 of 19 directors, or nine directors continued, and we named 10. That is the only hostile takeover we have been involved in. The others have been by invitation or by negotiation on a basis that was acceptable to the other shareholders and their managements.

Mr. Haggerty: The largest number of takeovers of another company, or firm or whatever it may be, is done by negotiations, and you prefer that process rather than taking the harsh terms to obtain--

Mr. Eyton: We do not believe in that. Sometimes you have to fight. Sometimes you have to stand on principle and say, "If I do not stand up, I am going to pay for it in the years ahead, because you will find a whole series of people will do the same thing. You need enough respect. In principle, we do not approve of hostile takeovers.

Mr. Foulds: How many did you say?

Mr. Eyton: I do not know.

Mr. Haggerty: I have just one more question for clarification. Yesterday the president of Royal Trustco discussed in some detail the global investment of Royal Trustco offshore--say, in Switzerland, England and other places. I notice that under your chief executive office you deal more in the resource industries, such as mineral and forest.

What are your feelings or viewpoints on the matter I am looking at, in particular the one dealing with MacMillan Bloedel Ltd. and Northwood forest?

What is your feeling on free trade with the United States in this area? I understand the forest industry is having some difficulties now in exporting to the United States. What are your views on this area?

Mr. Eyton: No doubt it is probably just a threat of a difficulty, and I guess they are working on it very hard.

To come back to Brascan itself, I have an involvement in the other companies. I also have a position. I am president of Edper Investments, which is a family company, so that I have an involvement in the other companies as well.

At Brascan we have three areas of activity. One is financial services. Our proxy there is Trilon Financial Corp., and one of their investments is Royal Trustco, where they own a 50 per cent interest. I know Mel Hawkrigg, the present chief executive of Trilon, is going to be appearing here in a few days, and he will have the story. The first is the financial services.

The second is consumer products. It is a general category, and that is represented by John Labatt Ltd. John Labatt, of course, is in the beer business--we all know that--the dairy business and a variety of other consumer products both in the United States and Canada.

The Vice-Chairman: The dome business.

Mr. Eyton: We are not sure about that. We are still negotiating.

Mr. Foulds: At least the baseball business.

Mr. Eyton: The baseball business, yes. The third is natural resources, and that would be oil and gas, mining, forest products and some of what I would call mid-range, mid-technology manufacturing businesses.

Mr. Haggerty: You do not have time to sleep, do you?

Mr. Eyton: Oh, no. Our secret is that we find wonderful people, and I could go through the people who manage these. They are all household names. The reason they are household names is that they are independent, they have their own profile, they are chief executives at widely held publicly companies, on the rules I described, and they are there. Peter Widdrington at John Labatt runs the show. I have to tell you that if he did not consider that he was autonomous, we would not have Peter Widdrington; he would go somewhere else, because he is the kind of executive with the kind of talent who wants to run the show. We could not keep him.

Mr. Haggerty: I did not get my answer on free trade.

The Vice-Chairman: Maybe we can come back to it.

Mr. Eyton: Let me do that; I can do it quickly. I think that Canadians, again in their own vested interest, self-interest--I am not supposed to use that word here--will and should embrace free trade. There is obviously some dislocation in that. The important thing is on what terms, and the terms have to be hard fought. They have to provide for transition and they have to make some special accommodations or arrangements for some industries that are particularly impacted, largely because of laws, regulations and political judgements that have impacted on those industries or services.

The Vice-Chairman: You might actually find the report from the all-party committee on that issue very interesting.

Mr. Foulds: Can you give us an approximate figure on the number of takeovers Edper Investments Ltd. and its emanations have engaged in in the last 10 years?

Mr. Eyton: I have trouble with the word "takeover," because that--

Mr. Foulds: Friendly or otherwise.

Mr. Eyton: You might just say "other major investments," if you want. I guess it would be in the range of 25, something like that. I have never counted them, but it would be in that range.

Mr. Foulds: When you say--I think I have the phrase right--that you have never inflicted a majority decision on any of your individual boards, what do you mean by that?

Mr. Eyton: First of all, with the exception of Brascan, we do not have a majority of any board. We are dealing from a minority position. Even beyond that, we do not go in and vote as a block. At Brascan, we do not come to some decision and then charge in to, say, John Labatt--either speaking to the chief executive or to the board--saying, "We have made this decision for you." We do not do that. We would not.

11:10

In effect, we may bring up an idea from time to time, but we consider it is our responsibility to sell it. Unless it is consensual, unless it has the support of both management and the board, including the broad board, it is not a worthwhile idea. It will not work. You cannot tell a good chief executive to do something he does not believe in.

Mr. Foulds: But if you persuade the chief executive officer, then you can persuade the rest of the board and it would work.

Mr. Eyton: That might help, but unless we achieve a comfort level with the independent directors, we will not proceed.

Mr. Foulds: I missed the very opening of your presentation and I apologize for that. What is your definition of an independent director?

Mr. Eyton: I was using that in the context of a director who, in effect, is not nominated by us, representing our major shareholding. It is a director representing the public shareholding, the widely held shareholding.

Mr. Foulds: Okay. In your interests in the resource sector--and I believe the takeover of Noranda Mines was in 1981?

Mr. Eyton: Yes, 1981 and 1982.

Mr. Foulds: Somewhere in there. Can you go head to head with Canadian Pacific's investments sometimes?

Mr. Eyton: In the sense that we compete for the same tree?

Mr. Foulds: No. That you compete for the same companies to take over.

Mr. Eyton: I suppose. We do not like hostile or auction activity, but occasionally you are making an investment in competition with other people. I am not sure I know of any case where we went head to head with CP. I do not think we have.

MacMillan Bloedel was something Noranda did after CP made an effort to acquire MacMillan Bloedel. Part of the reason Noranda made the investment in MacMillan Bloedel, at least in my view, was to discourage us from making our investment in Noranda, so I can take responsibility for the investment in MacMillan Bloedel.

Mr. Foulds: That was not such an entirely friendly takeover, if Noranda wanted to get big enough that you could not take it over.

Mr. Eyton: No. There was certainly tension there, but we did not acquire our major position in Noranda until we had resolved our differences with the management.

Mr. Foulds: You eased into it.

Mr. Eyton: Yes. It was not a hostile takeover; it was a negotiated investment.

Mr. Foulds: It reminds me of some takeovers--if one can use the nation state as a parallel there--where more imperial powers from Rome to the United States have exerted some influence over weaker and adjoining territories.

Mr. Eyton: We are straying from the financial institution field, but I want to talk about Noranda a bit. I have two things I want to remind you about.

First is that the negotiated arrangements that we made with the Noranda management and with the independent directors are still continued. We are still a minority. We would purchase treasury shares from Noranda. We invested \$500 million in the treasury of Noranda in 1982. I think it is fair to say--most analysts would agree--that without that \$500 million, Noranda would have been in severe difficulty.

Beyond that, I want to note that in recent years there have been only two major mining developments in Canada, and both of them were within our group. It is because we have the capital and we are taking a longer-term view. One was out in Vancouver Island, and we spent about \$250 million on a new polymetallic mine. It is a good mine. It is still not making much money, but it is a great mine and we know it will pay off in the longer term. The other was our Hemlo investments, the gold camp in northern Ontario; again the same kind of dollars were spent, about \$250 million. Those were exceptional in this Canadian landscape. No one else was doing it. They were doing it because they had the financial strength to do it and because they were prepared to take a longer view.

Mr. Foulds: In Hemlo, you are going to get enormous returns.

Mr. Eyton: I hope so. That is why we did it.

Mr. Foulds: It looks pretty good to me. Your argument basically is that widely held companies could be and tend to be irresponsible and that companies with a major shareholder are more responsible and more accountable. Do I understand your argument clearly?

Mr. Eyton: I would prefer to say that a major shareholder ensures accountability. You can have good accountability and good management without it, but the major shareholder ensures it.

Mr. Foulds: Aside from the major shareholder being big and therefore less likely to have a run on it, him, her or whatever, what are the other advantages?

Mr. Eyton: I do not understand "less likely to have a run on it."

Mr. Foulds: Less likely to be taken over.

Mr. Eyton: I am not sure if that is good or bad. It depends very much on the company. The major shareholder has to be a responsible major shareholder. All I meant to say is, if you are a major shareholder you have a significant investment and you are going to be awfully careful about it.

Mr. Foulds: You will protect that investment.

Mr. Eyton: You are going to be sure it is well managed. You have to remember, people somehow think the interests of the major shareholder are different from the interests of either the other shareholders or of the company or the community at large; they are always the same. We have a major stake in Royal Trustco. More than anyone we have a financial and a reputation investment in Royal Trustco, and it has to work. We have that stake. That is why I talked about it in the sense that, as the major shareholder, you always have 100 per cent of the downside and you have whatever percentage you have of the upside.

Mr. Foulds: I am much more familiar with the effect of a resource investment on communities than I am about a financial institution's investment upon small communities, but I know from historical experience, where I come from, the major shareholder has not taken very much consideration of the community. I would like you to explore what you mean by a major shareholder being responsible for a community.

Mr. Eyton: Again it depends on the major shareholder, assuming you have decent people and decent motivation. I tried to outline the rules under which we play. With variations, those rules would apply to all the major shareholders I know in this country. In the long term, it is the only way you can assure success. You cannot take a short-term view.

Mr. Foulds: Say you are involved in a resource involvement, as in Hemlo, and you have access to information fairly early on about when you are going to close down the mine. At what point do you think that should be made available to the community? People in that community have to make plans; the government has to make plans.

Mr. Eyton: I do not know. I would have thought the people working there would know what is going to happen to that mine long before any of the guys on Bay Street. Generally, they are better informed than the people in the south. That has been my experience.

Mr. Foulds: I am afraid, from the historical experience in Atikokan and at Kimberly-Clark at Terrace Bay, that ain't so.

Mr. Eyton: I am not familiar with them.

Mr. Foulds: As a company, would you be willing to endorse the recommendations of what we commonly call the Rosehart committee, the advisory report on single-industry towns, I believe it is called, that major corporations that have a stake in communities should have in effect annual meetings with those communities, just as they do with their shareholders?

Mr. Eyton: I am not familiar with the report. As an individual, I must say it sounds like something that should be done. It sounds like a good idea to me, but I am not prepared to make any commitments because I have not read the report.

Mr. Foulds: If you read and studied the report, is it something you would be willing to give consideration?

Mr. Eyton: Sure. It sounds like a good idea.

Mr. Barlow: Getting back to the 50 per cent being the major shareholder portion, particularly in the financial area, which is what we are talking about here, but also in the resource and other industrial areas, in many of the companies that Brascan is involved with, do you have substantially more than the 50 per cent holding?

11:20

Mr. Eyton: Just a few; and there is a commitment to reduce it. For example, we have a larger interest in London Life, but the commitment is to reduce that over time. Sometimes it will be lower, and we reserve the right to increase it to the 50 per cent level over time. It is a matter of timing rather than fact. There are a few in which we are larger than 50 per cent. This chart is not entirely accurate, but it is substantially accurate. Time passes and things happen. For example, our effective interest in Scott Paper now is 10 per cent, and there are other similar adjustments.

Mr. Barlow: I do not know what I am looking for here, a percentage or what. Do you have substantial holdings outside of Canada in your financial end?

Mr. Eyton: In the financial services end, Royal Trustco has. Michael Cornelissen would have spoken about that yesterday. Apart from that, there are a few, but I would not characterize them as substantial relative to the Canadian operation within the financial institution area.

Mr. Barlow: Out of interest, are there still holdings in Brazil?

Mr. Eyton: Yes, there are.

Mr. Barlow: I have been reading the history.

Mr. Eyton: They continue to do well, year in, year out, at least on the face of it.

Mr. Barlow: Thank you.

The Vice-Chairman: With the committee's indulgence, Mr. Eyton--they gave me the vice-chairman's job to try to shut me up, but it will not work. I have a couple of questions.

Mr. Foulds: We can still manage that.

The Vice-Chairman: I want to get back to the line of questioning you have been inundated with; that is, the management-director relationship. I agree that you have quite capable managers, in essence steering the ship effectively, such as Mr. Cornelissen. I am thinking of my own personal experience, for example. If a memorandum came from the board of directors over your signature and landed on the desk of the president of the corporation, how much give and take is there? Frankly, I think that to some degree there would be some fear from the human point of view to make sure he complies with it somehow.

Mr. Eyton: In my experience, that is not at all the case. If you think of the stature of the people I have to deal with day by day--they are big and burly--and if I have an idea, it has to be--

Miss Stephenson: Intellectually, that is.

Mr. Eyton: Some of them in other ways too.

Miss Stephenson: Does physical burliness have anything to do with it?

Mr. Eyton: It helps intimidate.

Miss Stephenson: That is a masculine trait, Mr. Eyton, and I am sad to hear you say that.

Mr. Eyton: I am saying--about myself--

Mr. Foulds: I am biting my tongue.

Miss Stephenson: I bet.

Mr. Eyton: If you go through our major investments, we have our Brazilian investment, which has been represented, before I got to Brascan and now, by a very senior Brazilian with enough stature and ability and ego that it is a conversation. It is not a memo from us saying he should do A and B, but a suggestion that maybe he should look at A and B, and he will; and I can tell you that we will get an independent reply.

Peter Widdrington and I have already talked about it. If you know Peter Widdrington, you know how independent he is. Again it would be a discussion, and if we agree on something, it is because he honestly thinks it is a good idea. In financial services, you are going to meet Mr. Hawkrrig. He is not by any means a pushover.

The Vice-Chairman: I am not saying "a pushover." I am just wondering, though, when you get down to a situation wherein Trevor Eyton wants this and executive A wants that, how the hell do you resolve it. Are you telling me you have a give and take?

Mr. Eyton: I just said how we resolve it. We resolve it in favour of the company and its senior management.

The fact is that if management underperforms over a period of time, if it is not keeping up with the competition and not performing according to its own plans, then you change management. But when you make a guy chief executive and give him the leadership, you have to respect that, and to the extent that he does not want to do something, you are just whistling if you force him to do it, because the chief executive who does not want to do it will ensure it

does not work. You may have the satisfaction of saying, "I made him do A." The other thing you know is that 12 months later he will come back and say, "I tried A and in spite of my best efforts it did not work." It is because you made him do it. We are not naïve.

The Vice-Chairman: I will leave that line of questioning. Let me get back to something you alluded to earlier in your presentation, what I suspect is the disproportionate inequity regarding share values and so forth between trust companies and perhaps other investments. Speaking in general terms, is it safe to say that return on investment as far as a shareholder in a trust company is concerned would be greater for a number of logical reasons than the return at most banks? Would it be safe to say that? Mr. Yeoman is nodding.

Mr. Yeoman: It is fractionally over. I think the trust companies are fractionally in excess on return on equity.

Mr. Eyton: In recent years.

The Vice-Chairman: When you say "fractionally," what is the degree?

Mr. Yeoman: There could be a couple of per cent.

The Vice-Chairman: Let me be the devil's advocate for a minute. If that is the case, if it fractionally outperforms return on investment from the major banks, in pure economic terms, does that not substantiate the 10 per cent majority shareholder interest as opposed to 50 per cent, which you are suggesting?

Mr. Eyton: We are talking about terms. We are talking about two things. I was talking about shareholder values.

The Vice-Chairman: Let us go back to the return.

Mr. Eyton: On the shareholder values, the market value is the trust company investment three times--Royal Trustco three times the shares of banks. It is partly because they were looking at the banks as they are and perhaps some of the problems they have with their portfolios, which are somewhat historic now.

The Vice-Chairman: To look at pure economic returns to an investor in shares, if there is only a fractional difference, does that not reinforce the fact that in economic terms the 10 per cent limit does not limit their performance, aside from Dr. Stephenson's--

Mr. Eyton: Their return comes twofold. It comes from the business, their charter, the business they carry on. Until recent times, they had a hammerlock, an exclusive. They are such a dominant presence today that in many ways they still have that exclusive; so they have a territory and a system there that ensures it.

The banking business worldwide has generally been a pretty good business. Canadian banks have performed well within their prescribed business. The Bank Act provides that they can carry on the business of banking. It does not have any real definition of what that is, with the result that they have been able to add on where that seemed appropriate. There are some limits. The limits are that the business functions have been given specifically to others.

For example, insurance companies are given a specific mandate to carry on the insurance business as it is understood, but that is it. It is not a

generic term like "banking." Insurance is insurance and that is what they have to do. It is the same thing with the trust companies; they have a specific ability to carry on particular kinds of businesses, and they do. It is not the kind of generic banking description that banks have. Banks have tended to be more expansive in any event. In general, their business charter is broader and has been good for them.

The other factor is how you are capitalized and how you are managed. We think the trust companies generally are well capitalized. Royal Trustco has a more conservative balance sheet than any of the major chartered banks and has the management. We had three elements that I mentioned, and what I was talking about was, as I saw it, the greater accountability of management where there was a major shareholder, but that impacts on only one of three elements.

11:30

The Vice-Chairman: Are you agreeing with me or not? I am not sure I got an answer. If I had 100 shares in bank A and 100 shares, on average, in trust company A--

Mr. Eyton: What I am saying is that it may work for the banks. The trust companies--

The Vice-Chairman: Are different.

Mr. Eyton: --have evolved. They are performing well, in large measure because major shareholders came along and made a commitment. The commitment was for capital and people. As I said, they performed well. They provided more competition in the Canadian marketplace and the beneficiary has been the Canadian public. I do not want to attack the banks; the banks are the banks. What we are asking now is whether it has been a good thing for trust companies or life insurance in general. I think, clearly, based on the evidence, it has been a good thing.

The Vice-Chairman: I have one very short question I think you can answer, and then Dr. Stephenson has one. How much leeway or power over and above the board does the executive committee of a board have? I am not sure I am explaining it correctly.

You meet four or six times a year as a board; the executive committee, no doubt, would be in more frequent contact. How much discretion does it have from the board?

Mr. Eyton: First, it is a subpart of the board and is directly accountable to the board.

The Vice-Chairman: In essence, does the board grant the power of the board in any degree to the executive committee during the intervals?

Mr. Eyton: No. In general corporate terms, the executive committee can do everything the board can do, with 10 or 12 exceptions, including allotting stock, fundamental charter changes and those kinds of things.

The increasing practice--and it is certainly the practice in our group--is to try to avoid executive committee meetings. They tend to be more mechanical and more interim and are always subject to review and approval by the board, sometimes after the fact, of course. I would not regard it as a significant factor in the governance of the company itself.

The Vice-Chairman: Do you have independent directors on the executive committee?

Mr. Eyton: Always.

The Vice-Chairman: In the same proportion as on the board?

Mr. Eyton: I am not sure about the same proportion, because that depends on numbers and so on, but, in general, we would have a cross-representation.

Miss Stephenson: There is increasing public apprehension about the potentially damaging effect that apparent loss of independence of financial institutions may have upon the integrity of the institutions in Canada. I guess the example that most elderly Canadian citizens--at any rate, those over 35--see as the independence of the banks is that the banks are institutions that have never been held in majority by any company. In most instances, Canadians believe, naïve as they are, that many life insurance companies are in that situation at present as well.

Given that fact, what would you do to ensure that there is a public perception that the integrity of financial institutions is being maintained and enhanced, no matter whether they are held in majority by other bodies or whether those bodies have anything to do with finance, resources or whatever? How do you think we could go about that, given the fact that the circumstance is not what the public perceives in its mind it should be generally?

Mr. Eyton: I think it is fair to say the public has been confused by the continuing debate, including as it has been described in our media in Canada. When we--and I am sure we will--finally evolve in Ontario--and I make the point "in Ontario"--and the other provinces and federally, when we evolve a system with responsible rules and we all go back to business, the topic will slide away and public confidence will be there.

I do not think there is any suggestion in your remark that there is not great confidence in the performance of most of our financial institutions now. In fact, they are performing exceedingly well.

Miss Stephenson: However, there is concern that they may not.

Mr. Eyton: I am not sure. It does not seem to translate into the people who are doing business with the banks, the trust companies and the insurance companies. Business goes on. You tend to hear about it in committees and in hearings like this and you read about it on the first page of the second section of the Toronto Star. I think there is a greater concern--

Miss Stephenson: You are also going to hear about it from your constituents, who come in to talk about it as well, who have--

Mr. Eyton: Send them to Royal Trustco. Tell them they will be well looked after.

Interjection.

Miss Stephenson: Yes. I am afraid one example is not going to reassure the entire situation. However, that one I will not use because of the--

Mr. Eyton: My serious point is that while the debate continues--and you have to recognize that it is not a debate peculiar to Ontario--the same debates are going on across the country. I am concerned Ontario may come to some kind of resolution that is different to the one in Quebec, where they are going in quite a direction quite different from Ottawa's. It will mean Canadian institutions, wherever they are based, will be disadvantaged vis-à-vis like institutions in other countries. It is a revolution. Things are happening. There is a loosening up.

I think it is at least noteworthy that in Canada, because of the discussion, Royal Trustco has a proud record and provides the services and products. But in general, on a day-to-day basis, do not talk about the association as part of a larger group of companies. I have to tell you that everywhere else in the world it is regarded as just a great thing. Royal Trustco, when I go to Germany, England or Japan--I mean it is funny that--

Miss Stephenson: Is that not the kind of thing Royal Trustco should be doing? Should you not be publicizing the fact?

Mr. Eyton: As I say, because the debate, and partly the misinformed debate, is going on in some of the media, you are a little nervous. So Royal Trustco, in effect, wants to show its record and performance and show what it can do. It tends not to talk about the affiliate companies.

Mr. Haggerty: You have to be careful of a takeover.

Mr. Eyton: Everywhere else in the world, including places that were there long before we were and have a great deal of sophistication--such as England, Germany and Japan--as soon as Royal Trustco mentions it is part of a group, the Japanese say: "Oh, yes, that is very good. We like that."

Miss Stephenson: Surely that is the kind of information that needs to be shared with the Canadian public in a way that is going to make them less apprehensive than they are right now. Their apprehension may be misdirected. It may be poorly founded, but it is there and something has to be done about it. I do not think, if I may say so, that you can leave it to the banks to solve that problem for you, nor can you leave it to government to solve it for you.

Mr. Eyton: I acknowledge we have a big job to do and we have not done it particularly well.

Miss Stephenson: Yes. Are you going to start?

Mr. Eyton: We are doing our best now, but--

Miss Stephenson: No, you are not doing your best now, but you could be doing your best.

Mr. Eyton: We just started.

The Vice-Chairman: Dr. Stephenson, with respect. Mr. Eyton, would you entertain one question from Mr. Henderson, who has not had an opportunity?

Mr. Eyton: Yes.

Mr. Henderson: You said a moment ago there is a revolution going on. What did you mean by that?

Mr. Eyton: For a long time there tended to be categories of financial services and you tended to be a merchant bank or a chartered bank as we know it here in Canada. I will use the Canadian example.

A trust company carried on a trust business. You may remember historically trust companies were really an appendage to all the banks. All the major trust companies were associated with a major bank. They were kind of off there at the side and they had perhaps not their most senior management or their most senior effort. It was only when they were forced to split that the trust companies went out on their own, but the trust business was also separate. The fiduciary business was separate, chartered banking was separate, investment banking was separate, but that is all changing.

There is a term I like which comes from an article I read in a financial magazine about a year ago. They talked about the securitization of practically everything. What they meant is that the mortgage business now is more than the mortgage business. People are forming mortgage funds that put out mortgages, but then they take that in turn, they sell the paper representing the collective ownership of a package of mortgage and that then turns into some kind of participation certificate, but it gets confused.

You are no longer a mortgage company, property company, chartered bank, investment banker, trust company or life insurance company because there are tremendous competitive pressures to enlarge the services and products that you offer. In Canada, if anything, we are probably lagging behind some of the financial centres in the world. Whatever we do, it has to be in broad conformity to some of the international competition.

The Vice Chairman: Might I then conclude, Mr. Eyton?

Mr. Henderson: Could I have one more go? I want to make sure I understand what I have heard and have it framed correctly.

To the complaint that one hears that there is too much concentration of ownership in financial institutions and concern about alleged loss of public accountability, your reply--if I understand it--is that what is described in those terms is really the emergence of single major shareholders and that is a good thing because it strengthens the accountability of senior management and allows the institutions to perform better. Do I have it right?

Mr. Eyton: There are two other points that I really led off with. In relative terms, we are still pretty tiny. I went through the businesses: natural resources, real estate, financial services and consumer products. Those are our businesses and those tend to be the same kinds of businesses as the other so-called major groups in Canada. All of them are pretty small in international terms.

I hoped I had adopted the Royal Trustco points there yesterday. Fundamentally, the top ranking Canadian industrial company happens to be General Motors of Canada. I think by memory it ranks 46th internationally. We are awfully small and it is a big world out there. It is international.

If I read to you the 45 companies bigger than General Motors of Canada--itself a subsidiary of a United States company--if I read the 45 ahead of it, you would recognize almost all the names. Why? Because they carry on business in Canada. They are awful big and they are awful good. They carry on business here.

It seems very strange to me to say: "We recognize those big companies are here. We want them to be here. They provide jobs and investment and so on but we are concerned about you, a smaller Canadian group. Somehow we are going to make it a little tougher for you to compete." It does not really make any sense.

In relative size, we are small. Second, in terms of the businesses we are in, all of them are very, very competitive. Again, look at the record, look at the facts. The Canadian public has been well served in those businesses. In real estate, we are well served. Natural resources has been a tough business but we are well served. In consumer products, nothing is more competitive than the beer business and the dairy business and the other businesses. They are highly competitive.

Miss Stephenson: But you do not want us to follow the beer example as Canada's concern of financial institutions. You do not want the necessity for a separate structure in each province.

The Vice-Chairman: I am going to interrupt Dr. Stephenson. She can carry on a conversation, if you so permit, subsequent to this meeting.

Mr. Eyton, on behalf of the chairman and on behalf of the committee, and, Mr. Yeoman, I want to offer my sincere thanks for your attending here today from your busy schedule. I think it says, quite frankly, a hell of a lot about you and about the companies you represent. We thank you for taking the time to come here.

Mr. Eyton: Thank you.

The committee recessed at 11:44 a.m.

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

WEDNESDAY, SEPTEMBER 24, 1986

Afternoon Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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Bond, D., Research Officer, Legislative Research Service

Witness:

From the University of Toronto:

Quirin, Dr. D., Professor, Faculty of Management Studies

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Wednesday, September 24, 1986

The committee resumed at 2:05 p.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: Shall we get started?

Mr. Barlow: I see a quorum.

Mr. Chairman: We have with us today Dr. David Quirin, University of Toronto, faculty of management studies. We are looking forward to hearing from you, sir. My local paper had an article in it just a few days ago that quoted you extensively on this topic. Carry on, if you will.

DR. DAVID QUIRIN

Dr. Quirin: That is a fair warning. I hope I will not contradict myself.

I have used the term "economic concentration" to describe two kinds of phenomena. One is the concentration of a major fraction of economic activity in a particular market or industry in the hands of a small number of producers, which I refer to as market concentration. The other use of the term relates to the ownership of a major fraction of the equity interest, usually the voting stock of a business enterprise, in the hands of a small number of owners as shareholders. I refer to this as ownership concentration. There is a link between these two. I will talk about the former first.

Unless industry is concentrated to some degree in the market concentration sense, nobody cares very much about ownership concentration. Most family farms, for example, have concentrated ownership. Because agriculture is a fragmented structure and because the industry is almost the antithesis of market concentration, this phenomenon is regarded as irrelevant economically.

Market concentration may be measured by one of a number of yardsticks. There is no point in going into the technical measures of concentration that are employed. The basic problem is not finding a valid measure of concentration, because all the measures of concentration tend to agree with one another; the problem is in defining the industry whose concentration is being measured.

This raises questions. Why do we care about market concentration? Is there anything about it in the financial sector that suggests we should be concerned? Are there any characteristics of this sector that are peculiar to it and make market concentration in this sector more or less a concern than it is in industry generally? These are the first questions we should ask ourselves when we begin to look at market concentration in the financial industries.

The answer is that it matters more, the reasons being at least as much political as economic. In the role of the payment system, service banks and

other financial institutions provide access. This role is so critical in a moneyless economy, such as the one we have, that individuals who do not have a banking connection are effectively outlawed, at least economically, and excluded from participation in the economic life of the community. There have been some examples of this--not very many but, in my view, perhaps too many in that this is applied to allegedly bad people. In the absence of some further demonstration of that, this creates a problem.

It is essential almost as a civil right that individuals have access to the banking system and be in a position where they can cash cheques payable to them and where they can draw cheques in payment of services. They need access to the system. This means, in effect, that they must have alternatives within the system so that a denial of service by one supplier can lead to the utilization of an alternative supplier.

We could perhaps tolerate the present degree of concentration in banking, which is the primary means of access to the payment system, but it is doubtful that we can tolerate more. It is likely that we would be better served by more competition. I will come back to the question of competition in the banking sector later.

Moving beyond the need for individuals to have access to the payment system, the notion of a banking monopoly is one of the enduring folk themes of Canadian folk economics. As a native Albertan and in memory of William Aberhart, whom I remember very clearly, his role has been great in Alberta and has been great in many other provinces as well. It is virtually impossible to test the ultimate validity of this concept of a banking monopoly in an economic sense. It is clear that innovations, whether they are structural or institutional, that weaken this supposed monopoly will continue to be in significant demand politically.

14:10

A further observation with respect to concentration in banking is that banks and other financial institutions, particularly in their role as lenders, have a degree of access to otherwise confidential financial information pertaining to individual clients. To the extent that they have access to such information, banking institutions are privileged in this society. Do we really want to share this information more broadly? There is a question of whether we want to expand the degree of broadcasting of this kind of information throughout the financial system. This is an argument in effect pushing the other way in favour of relatively minor changes in the structure of this sector.

My final reason for concern over concentration in the financial sector is that this sector--or many parts of it, at least--is effectively protected from foreign competition, usually by legislation that forces would-be competitors from abroad to come inside the country, incorporate here and compete on the local ground, often under certain disabilities such as those provided for the schedule B banks or for foreign insurance companies and so on.

Much of Canadian industry, if we look at manufacturing and trade, is highly concentrated, but in most cases that fact makes very little economic difference because there is effective competition coming in from imports that limits the ability of domestic firms to exercise market power. We should be concerned in looking at the financial sector, which is highly protected, that we not develop a degree of concentration that enables firms to use that degree of protection from foreign competition to gouge Canadian customers in one way or another.

Concerning the importance of structure generally, I would note that until very recently the economic thought in this century has been dominated by the so-called structured conduct performance paradigm, usually attributed to Edward Mason of Harvard and Joe Bain of Berkeley and originating in the 1930s to the 1950s.

In its most oversimplified form, this view of the economy holds that market structure, including but not restricted to the number and size distribution of market participants, is the primary determinant of the way competition is conducted or avoided and, through that, ultimately of how well markets work in terms of economic efficiency, production of equitable prices, production of technological progress and so on. There is a literature on this that is perhaps too vast even to cite.

This is, I think, an unduly deterministic view of the competitive process. It was dominant in the economic profession in the 1960s and perhaps even in the 1970s, but it is almost certainly wrong, except in certain special cases. One of these is fragmented industries such as agriculture, where the structure does enforce the kind of behaviour that one associates with peer competition as described in economics textbooks. There may be situations where single-firm monopolies also conform to the textbook model. There are a number of models in which excess of price over cost is a function of the number of competitors, the maximum being where the number is one and approaching zero as the number becomes very large.

These models go back to the middle of the 19th century, and they are broadly used as an approximation for the behaviour of competition in monopoly industries or in oligopoly industries, industries with a small number of competitors.

However, there are a number of competing models with respect to these kinds of markets in which, under certain equally plausible assumptions, the competitive outcome, or price equal to marginal cost, is generated by as few as two firms. Again, this literature goes back to about the 1870s, to Richard Bertrand. There is evidence in this literature--

I have a written version of this, which I will perhaps submit to you in a week or two if we catch up with typing it.

Mr. Chairman: That would be helpful.

Dr. Quirin: The university, as everyone knows, has terrible budget constraints.

Mr. Ferraro: Did the president make you say that?

Mr. Ashe: It is the sabbaticals that are costly.

Dr. Quirin: However, I do intend to finish this in a written form so I can find out what I have said myself.

What is evident from the more recent literature on how industries perform is that this is not really dependent so much on their structure as on whether a new competitor could conceivably enter a given market. This characteristic is referred to in the economics literature as contestability. Contestability literature dates back to about 1980. It can be viewed as a structural factor and is related to entry barriers and to the major costs in the industry and the extent to which it is concentrated.

In general, the dominant view at present is that contestable markets, in the absence of collusion, will generate essentially competitive outcomes, and they do not need a lot of competitors to produce this. If they are not generating competitive outcomes, the industries or markets that are contestable will attract the interests of new entrants and will become essentially competitive in behaviour in the very near future.

Obviously, there are industries that are not contestable. These are industries that are natural monopolies or natural oligopolies and that tend to generate prices corresponding to the classical monopoly model or to the Colonel Nash oligopoly model, which makes the degree of price escalation above marginal cost a function of the number of competitors.

These kinds of monopoly situations--the classical examples are in the public utilities field--are ones in which we have a so-called sustainable natural monopoly. Where we do not have sustainable natural monopoly, ultimately the competitive outcome will result.

This is all that economics theory has to tell us at present. It is substantially less than economic theory claimed to tell us 30 years ago. In some respects that is good, because perhaps with less imperialistic claims, we may get more truth and more useful predictions out of the model.

What it tells us is that the present structure is a lot less relevant than we thought it was 30 years ago. It tells us that, but it does not carry us directly to a list of contestable markets or to a list of sustainable natural monopolies or oligopolies.

In looking at individual financial markets for evidence of concentration, I have started, as I have always done, by looking at individual markets and making some observations relating to them. The first one I looked at was banking. I do so in full awareness that this sector is, by virtue of section 91 of the British North America Act, quite outside the jurisdiction of this body. I do so because the banking story is, to a considerable extent, the story of the other financial industries.

The first thing I note about banking is that its structure has been remarkably constant during all the years for which I could get any data.

Since 1841 the equivalent number of equal-sized producers that would generate a Herfindahl index of the same value has been between five and six. It has been somewhat higher during the past 30 years than it was during the first 30 years of our national life. It was probably somewhat higher than six in the 1885-86 period, when there were 41 different banks operating in this country. The number had dropped to 33 by 1908, and was in the order of 10 by 1930. By 1930 the present concentration pattern was more or less definitively established.

From an economic point of view, five to six equivalent firms is neither a particularly large number nor a particularly small one; it is reasonably concentrated. If we looked at the manufacturing industry and industries comparable with the manufacturing industry, we would probably view it as highly concentrated. However, it is not a manufacturing industry. The relative constancy of structure over 145 years--admittedly, with ups and downs--suggests why this is so. First, most new entrants since the Second World War, perhaps even since the First World War, either have been absorbed by senior competitors, usually as a result of their getting into financial difficulties, or have failed outright, as a couple have done in the past year.

14:20

Some other new entrants are still active but have not obtained a market share that would indicate that they have successfully entered the banking market. They have a piece of the banking market. If I were asked to prophesy whether they would be here or not in 10 years, my prophecy would be that they would not be here in their present form.

In addition to these, there are some small inter-war entrants, the Mercantile Bank in particular, that have been absorbed by merger in the past 25 years usually to attain hypothesized economies of scale or to avert serious problems. These are the earlier ones: Provincial Bank, Imperial and the Dominion Bank. The only clearly successful entrant on market share criteria has been the Continental Bank, which converted from a successful sales finance company into a chartered bank in this period. There is enough of the market share and enough of a market niche in which it can compete that I would be reasonably confident in predicting its presence 10 years from now.

This history raises significant doubts about the contestability of the banking market, at least as far as totally new entrants that attempt head-on entry are concerned. The Continental Bank case suggests that conversion from other types of financial intermediaries may result in successful entry. That is a reasonably small sample. Another sample is entrants from the larger trust companies that have not moved into banking but that have developed a significant presence in what we could call a retail banking field. They have more branches on more corners than the chartered banks at this point.

There have been rumours from time to time that at least one of the participants in this set has developed banking subsidiaries outside Canada. There have been no attempts to convert trust or loan companies into chartered banks. From discussions with individuals in some of them, I know that some have taken substantial steps in this direction but have drawn back at the last minute, presumably on grounds that they would be better off remaining where they were.

From a retail banking point of view, this has augmented competition in the banking field. It does not increase the number of banks. If banks, as defined in the Bank Act, are to grow, I suggest they grow through a schedule B from the conversion of existing trust or mortgage companies. They will not be, unless substantial changes are made from the growth of schedule B banks.

I assume that some of those, such as Citibank, would be willing and able to grow in this market if given a completely free reign. I do not expect to see them get that free rein, and I do not view them as the likely providers of additional banking competition in this market in the foreseeable future. They do, however, provide a source of potential competition if, for various reasons, we find that we do not have enough left among the purely Canadian banks. It is possible to do what has been done in a number of US states where the local banks tended to be monopolistic in character: that is, invite outside banks in.

In particular, most of the British clearing banks as well as a number of the Canadian chartered banks are well represented in California in a system where there is an interest in developing outside competition. If we are looking at more competition in there, I would recommend any legislative changes that would make it easy for trust companies to perform expanded banking functions and to convert to banking status.

If we look at other financial segments, a similar picture emerges in those cases. This picture is one of a fairly constant concentration over the past 25 years or so. There is probably some increase in concentration among the trust companies and almost certainly an increase in the investment dealer-merchant banker category. It is not clear that these increases mean what they are presumed to mean under the terms of the structured conduct performance model, as I noted. Our trust companies have been the most successful challengers to the chartered banks within the retail banking function.

The increased concentration of the trust company sector, which has happened, means probably more and not less competition in retail banking and we draw significant benefits in terms of geographical and temporal accessibility to retail customers.

Moving beyond banking, most of the organizations, and some of them have been mentioned, within these industries can be classified technically as financial intermediaries. This means simply there is a sort of financial conduit in some sense. It borrows money at one end and lends it out at the other. This essential function is accompanied by the keeping of certain records and decision-making for the processing of information. Information processing aside, and I do not want to suggest that it is unimportant, the basic economic function is the conversion of maturities from the maturities desired by borrowers to those desired by lenders.

This is done by financial intermediaries that individually assume liabilities which differ in maturity or duration from their assets. This process involves significant risks when interest rates change, particularly when the interest costs rise and the cost of borrowed funds goes up faster than the cash flow from lent funds. To protect themselves from this risk, most financial intermediaries have sought to limit their exposure by raising funds in one part of the market and lending them in others.

Mr. Chairman: I wonder if you could attach a microphone to your tie.

Mr. Ferraro: It is being recorded for posterity.

Dr. Quirin: Okay. I would not want to cheat posterity.

If we can look at the duration of assets measured in a horizontal direction as compared to duration of liabilities measured downward from this origin, these being zero duration and these being infinite in the opposite corner, we can sketch the market positions occupied by different kinds of intermediaries 30 years ago. In this corner we have the investment dealers. Somewhere in here we have the chartered banks, finance companies, trust companies, mortgage companies; somewhere back here are fire and casualty companies; and somewhere up here--I forgot it--are the credit unions. I do not mean to disparage them by so forgetting them; but life companies, mutual funds and pension funds are down at the bottom corner typically.

If we draw a 45-degree line through that nice square, we find that most of the assets held by financial intermediaries of whatever kind are slightly longer in duration than the liabilities they issue. Basically, they make money by borrowing short and lending long, but not too much. Historically, we have developed participants in the capital market that have operated by doing this, and for the most part doing so very effectively, except where you find classic examples of people in one or more of these categories who have been caught as a consequence of very sharp interest rate changes. For example, in the 1981-82

interest rate squeeze, the finance companies were particularly badly caught, because they had borrowed short and lent long. They had to pay higher interest than some of them were able to collect. They are still in the process of trying to recover from that exercise.

14:30

That is a neatly compartmentalized picture, if we go back to the early 1950s, when I was a banker. If we look at the same story today, the duration of assets are squared by definition, not by appearance. The duration of liability--we still find the same people in the same preferred habitat, but instead of nice squares, they are overlapping blobs; meaning if we come out this corner, the investment dealer-stockbroker operation is no longer occupying the specialized function it had. We find that a number of them are running money market accounts which are basically competing with the deposit account offerings of the chartered banks.

Pressing in from the other side we find some of the finance companies competing, not so much in the raising of funds but in the lending function, with the chartered banks more successfully, or maybe the banks are competing more successfully with the finance companies in the medium-term loan, reasonably high interest rates, fairly high administrative cost structure, which was formerly the preferred domain of the finance company.

Moving further down, we find the trust companies again overlapping, both on the lending side and the raising-of-funds side, the domain of the bank. We can show you what has happened. We have gone from having a set of narrow industries, which were defined by statute and in which economic functions were differentiated from one another by a relatively neat place on the maturity structure. We have replaced these with a bunch of people whose activities are still defined by statute where the statutes have become much more generous in terms of what they can do where everybody is competing, not on everyone else's turf, but on the turf of the people two and three steps above them and two or three steps below them on that spectrum. So we do not have a separate set of industries any more. We have one financial, intermediary industry.

We can see where these different identifiable blobs, which we are accustomed to calling industries, are really identifiable in terms of the new jargon of corporate strategy as strategic groups within the same industry.

Mr. Ferraro: Is it a better system?

Dr. Quirin: It depends on who you are. In general, yes. In general there are far more alternatives available to the customer, no matter what he is. If he is a borrowing customer--there was a day when the would-be buyer of a car on time had to deal with the acceptance company with which the car dealer from whom he bought the car had connections, or he was out of luck. Today he can approach a number of sales finance companies directly, including that one, but more probably he can get the money from his own bank at lower cost with less inconvenience, and in general he is better served.

The retail bank customer is better served; if he wants to bank on Saturday afternoon at 3 p.m., he can do it, whereas, when I was a banker, he certainly could not. He does not have a full service facility available to him at 3 p.m. on a Saturday afternoon but he probably will have within 10 years. He may even have it on Sunday, God forbid. It certainly creates more competition for the custom of the borrowers and lenders. It is a system that does violence to accepted notions of what concentration amounts to. It is not

really possible, without looking at three or four of these strategic groups, to say, "These are the people who are competing in this particular market," if it is a retail banking market. If it is a corporate banking market, there is a different set of people who participate.

Mr. Ferraro: Can I ask a question?

Mr. Chairman: Is that all right?

Dr. Quirin: That is fine, sure.

Mr. Chairman: We like to have a classroom feeling here.

Mr. Ferraro: I just wonder if there is a downside. I am sure, from your experience, what you have to a greater degree now are floating-rate loans. In the old days you had a hell of a lot more security because you could get a 25-year term mortgage, or you could get a longer-term loan for some other commodity.

Dr. Quirin: Yes. There is a downside. The 20-year mortgage and 25-year mortgage have disappeared, which probably would not have stayed. If we were faced with the interest rate variability we have had since the late 1950s, since the conversion loan in 1958, which started all the trouble by some accounts, but I do not think it really did, it has been very difficult for anybody to raise funds from a source that would permit them to offer 20- to 25-year mortgages with any degree of assurance that they would cover the cost of the funds raised from the proceeds of the mortgage loan.

If you go back to the 1950s, you tend to find a fairly heavy involvement of life insurance companies. With assets raised in this fashion, they were about the only ones who could afford to tie up funds for 20 to 25 years.

Mr. Ferraro: Pension funds to a minor degree.

Dr. Quirin: Pension funds have become able to do this, but I do not think they are heavily involved in mortgages yet. There has been that loss of flexibility. It goes both ways. If the rate goes up that is a bad thing, and if the rate goes down it is a good thing. We have tended to increase the exposure of most of these institutions as far as the duration shift that they accomplish within their own operations is concerned. It has been raised.

Mr. Ferraro: As well as the exposure to the consumer.

Dr. Quirin: The exposure to the consumer. The fact that only in so far as he is forced to adopt the floating-rate loan or in so far as he is involved in an institution whose solvency is threatened is a consequence of this longer maturity situation that we find on average in the financial intermediaries. Most of them maintain a portfolio of a certain set of fund sources and a set of applications. So the effective change in exposure may not be as great as it appears if we just take the averages. But there certainly has been some increase in the averages and some increase in risk.

Mr. McFadden: This committee is looking at regulatory factors and legal mechanisms. I take it there are a lot of reasons for this change. I would assume it was driven more by economic circumstances, or was it driven by changes of ownership patterns. I suspect part of this is a product of the 1970s and early 1980s and the inflation period.

Dr. Quirin: It started before then, in the late 1950s, and it was certainly economically driven at that time. Most of the rise of the trust companies as bank substitutes took place before there was any formal recognition of the fact in the legislation.

Mr. McFadden: The trust companies.

Dr. Quirin: Yes, and that has been probably the most significant factor in the increase in competition in the period, at least at the retail level. It is tempting to say this is as a consequence of certain things: the abolition of the Winnipeg agreement, the 1967 changes in the Bank Act or, more recently, changes in the Combines Investigation Act bringing charges for services within its purview for the first time. But I look at the United States, and I find that with the exception of the bank-trust company thing, which has always been blurred down there, basically the same change is taking place in a totally different regulatory context. I would have to say then that it has been market-driven and the pressures to make legislative changes down there are basically to accommodate what the market is driving, or that at certain points the market is driving in this direction and we do not propose to go in this direction for good and sufficient reasons or whatever, and as a consequence we will not change the legislation.

14:40

I think the failure to change the legislation creates the pressure to do so through the back door.

Mr. McFadden: Your advice on that point is for us to keep up with the market.

Dr. Quirin: The advice is to keep up with the market and try to guide it in the directions that are attractive from a legislative point of view in terms of consumer interests and of small and big lenders or small and big borrowers.

There are some problem areas, and where I see the major increase in concentration has been in the trust companies, because the small trust companies have amalgamated in many cases to become more able to compete with the banks.

I looked at the report of the royal commission on corporate concentration. It said it did not see anything in the way of economies of scale that it could identify that would justify the degree of concentration in banking that appears to be present.

I have to look at that in the light of 10 more years of experience and say, that is very well; in the intervening 10 years we have started up a number of new banks, none of which has obtained a toe-hold in the market. There is something about the existing banking structure that suggests that entering head-on is not a very attractive thing to do. It is a good way of throwing away money if you are a shareholder.

On the other hand, the trust company format enables people to compete with banks in a large number of individual service areas that creates institutions which are effective competitors for banks. It seems to me wise to see, not that we have enhanced availability of access to chartered banking on Sundays--it might come along--but that we have legislation that would encourage those trust companies that were interested in going in that

direction to acquire more of the powers they would ultimately acquire as banks to make that transition easier some years down the road. In other words, if you do want to enter banking, become a trust company.

Mr. McFadden: I gather you are suggesting that entering the financial services market as a trust company is something like a junior league for chartered banking of sorts. It is where you can build up the assets and expertise to make, potentially, a jump into the chartered banking area.

Dr. Quirin: Evidence suggests this, but it also does not show us any evidence of anybody having made the transition. I know the first contact was one group in one of the major trust companies seven or eight years ago that was looking at it, but after looking at it, it decided not to make the plunge.

Mr. McFadden: The closest example might be the Continental Bank.

Dr. Quirin: The Continental is an example here, but it is not a trust company.

Mr. McFadden: It made the jump from being an acceptance company.

Dr. Quirin: Yes, and it was big enough to sustain the jump and to be a valuable force in the banking market. If we look at the Canadian banks, they are very large, relative to the economy. They are major institutions by international standards.

Mr. McFadden: Do you think the reason the trust companies have not necessarily made the jump is because the regulatory framework is allowing them, as you have said, to do substantially what they could do as a bank anyway, and if they could get the trust company legislation amended they could do virtually everything they want to do?

Dr. Quirin: I think that is a fair and appropriate inference. A perfect comparison, going back a few years, is between the state banking systems, the state chartered banks and the national banks in the United States. I see trust companies becoming equivalent to the state banks and eventually full partners in the banking system now that they have access to the payment system.

Mr. Chairman: Perhaps we should let Professor Quirin finish his points. Then we will have some hands up.

Dr. Quirin: I see effective concentration decreasing and more and more competition between the subsectors, which are facing competition within the sectors. I never noticed that much competition within the banking sector anyway. To the extent that the banking sector has been forced to be competitive, the pressures from outside have come from what used to be called the country banks--the trust companies, finance companies and credit unions--that have forced bank interest rates up, bank lending rates down, bank hours to lengthen and what have you.

I have a word or two about the other side of the concentration issue, ownership concentration. I find myself somewhat bemused by the recent discussion and concern over ownership as a danger. I am not necessarily in disagreement with it.

Mr. Foulds: I am sorry. Not necessarily what?

Dr. Quirin: In disagreement with what has been recently said, but when I was a student, when I was younger, the concern was that ownership of corporate entities had become separated from control of corporate entities. A large number of management-controlled firms were wandering around the economy subject to nobody's particular control except that of the management. Owners had very little say over them. Bankers, usually with J. P. Morgan lurking somewhere in the background, had somehow acquired control over these firms and were using it to create problems for the economy.

Now we have concern over the fact there is a possibility that ownership and control lie in the same hands. Now, one is a problem or the other is a problem; I fail to see that they both can be at the same time. Perhaps they can. It is a question of the people. If we look at the positions of single, dominant shareholders in financial institutions, we have a number of possible alternatives: individuals with no other business interests; individuals with other, nonfinancial business interests; corporate conglomerate nonfinancial parents; corporate parents that are financial conglomerates; and captive insurance or finance company subsidiary situations. Those are a lot of situations where we find a dominant shareholding block in a financial intermediary.

The concerns I see as relevant do not extend to the case where you have a corporate parent that is also a financial institution. If I see a schedule B bank that is owned by Citibank, it does not bother me that 100 per cent of the shares are owned by Citibank. It does not bother me that the comparable Korean banks are 100 per cent controlled from outside the country; nor does it bother me very much that General Motors has a finance subsidiary to finance car sales that is 100 per cent owned by General Motors Acceptance Corp; nor does it bother me that some corporation has a Cayman Islands subsidiary which is a captive insurance firm that really underwrites the insurance coverage this firm carries or creates a situation where it is able to practise self-insurance on an economic footing. These do not create any problems for me.

I have problems with individuals who have no other business interests who own banks or trust companies. Concerns arise over the self-dealing issue, which you have had before you at length. Unfortunately, the individual with no interests who owns a bank is in an ideal position to acquire other interests. The individual who already has other interests and who controls a bank is tempted, or certainly can be tempted, to use his banking connection to finance those other interests, perhaps to the detriment of the other shareholders, policyholders or depositors.

14:50

The real problems relate to individuals of the conglomerate entrepreneur variety or the corporate conglomerates where the parent is a nonfinancial company. There is a temptation to use that control to finance activities elsewhere that might not be controlled if there were arm's-length dealings with this financial institution.

I recognize that a number of firms have set up Chinese wall schemes to prevent or discourage self-dealing. I have yet to see one that made any sense. There is a serious concern about self-dealing. The 10 per cent ownership provisions of the Bank Act would be commendable to most other enabling legislation for financial intermediaries, but I would want to leave room for the captive insurance company that is not raising any premium money from

anybody other than the parent and to the captive finance subsidiary that is presumably dealing at arm's length with the commercial paper market.

Mr. Haggerty: Can I interject a question at this point? Are you suggesting the 10 per cent ownership as it relates to banking institutions in Canada should also apply to trust companies?

Dr. Quirin: I am suggesting that it would be desirable, if we can somehow approach that. I realize it is possible to own more and behave perfectly honourably. I am sure that is the situation in most cases. We have in this province, in Alberta and in British Columbia--at least that I know of--provincially chartered organizations in the trust and loan company field that have been effectively exploited by owners.

Mr. Haggerty: Have you drawn any comparison with banking institutions in the United States that might be similar to what the trust companies have here, where you have perhaps one owner of a bank? I do not have to tell you the problems they are running into at present in the United States where you have smaller banks that are individually owned, maybe family owned or controlled, running into difficulties.

Dr. Quirin: There have been problems. I had a relative who owned a bank in the United States and who got into all sorts of trouble. It is a danger. We have seen too many examples where costs have been imposed either on the depositors, or more recently on the Canada Deposit Insurance Corp., as a consequence of concentrated ownership where somebody would be in a position to control one of these institutions and to use or abuse it.

Mr. Haggerty: You are suggesting that by backing the CDIC and the program that is available, you perhaps get some sloppy management at some of the trust companies. I am thinking in particular of the one that went under in the Niagara region.

Dr. Quirin: I have heard of some of those. I would not want to pick them. You can get sloppy management in chartered banks. We have had some more recent examples of that as well. Some degree of broad public ownership is preferable; let us put it that way. If you have broad public ownership and a board of directors representing that ownership which is doing its job, it would be very difficult to get the degree essentially of looting of corporate treasuries that has gone on in some of these cases.

Mr. Haggerty: If we look at the comments presented to us yesterday by Mr. Cornelissen of Royal Trustco, he indicated that without the security of 10 per cent of the pension funds related to the \$5 billion they have access to, they would not be as healthy as some of the banks, not if you were to remove that.

Miss Stephenson: He did not say that.

Mr. Haggerty: I interpreted it as that. He was talking about the \$5 billion they had access to.

Miss Stephenson: No, they do not have access to it.

Mr. Haggerty: I thought he said they had 10 per cent of the--

Miss Stephenson: No, they do not. They manage it.

Mr. Haggerty: If they manage it, they have access to it. Let us not get technical about it.

Miss Stephenson: It is not the kind of access that I think you are talking about.

Mr. Haggerty: I do not know. I am trying to get some information. If these pension funds were not available, would they be as healthy or would they have been able to do the things they have accomplished in the areas of--

Dr. Quirin: Their ability to be involved in the management of pension funds has increased their strength as institutions, I think unfortunately. I do not include Royal Trustco in this category, but some of the smaller institutions have taken their management of pension funds and turned it into access. They have used their management powers to access pension funds and invest them in other activities in which they were involved that did not turn out too well.

Miss Stephenson: Repeatedly--

Mr. Chairman: is this a supplementary?

Miss Stephenson: It is in this area and it is supplementary to the statement the professor made that there is a direct relationship between effective management of a financial institution and a major shareholder. We heard that a major shareholder had to be considerably or significantly beyond 10 per cent, that 10 per cent did not give you enough motivation or enough greed, not really greed but concern, about what was happening to your own investment.

Mr. Foulds: we are going to turn you into a raving socialist.

Miss Stephenson: This is the kind of--raving, no; the raving socialists are in that party.

Mr. Morin-Strom: A calm one.

Mr. Foulds: We will take you as a calm one.

Miss Stephenson: This was the argument that we heard, that you had to have major shareholders to ensure there would be effective management. It appears that the broadly held company and effective management are mutually exclusive.

Dr. Quirin: I find it difficult to believe that. In most of the industrial sector, we have broad ownership and that has not really affected the ingenuity of management.

Miss Stephenson: Sometimes where we had major shareholders, they have built the company badly.

Dr. Quirin: Sometimes we have had major shareholders who went to sleep on the job.

Mr. Foulds: We should let our presenter complete his presentation. I have some on the previous section as well.

Dr. Quirin: Okay. The only observation I have on that point is that

the chartered banks have lived with this rule. I find it very hard to infer from anything I can observe in their behaviour that the chartered banks are worse run than the trust companies. If the trust companies were as well served as the better served of the chartered banks--I could say the Toronto-Dominion--they would do very well indeed. I do not think it has anything to do with the existence of a majority shareholder. There is some statistical evidence on the industrial sector in the United States in general that tends to suggest that having a block of major shareholders in the 20 per cent range can perhaps be helpful.

Mr. Foulds: Twenty per cent?

Dr. Quirin: I would not want to go much beyond 20 per cent.

There have been some suggestions that any control over the distribution of ownership that discriminates against potential industrial owners of financial institutions is unfair because it is at least conceptually possible for the financial institution owning an industrial corporation to mismanage it for the benefit of the financial institution. That is relatively much more difficult because the assets of an industrial corporation tend to be of distinctly dedicated character that cannot be translated to somebody else. It is a problem once you deal with money. It tends to be very liquid.

15:00

Mr. Foulds: It is a movable feast.

Dr. Quirin: Yes. the other thing I will note is that in looking at the upper left-hand corner of that, one of the areas besides trust companies where you have seen significant increases in market concentration has been in the stockbroker-investment dealer-merchant bank or whatever you want to call it sector, where the number of firms is way down from what it was 40, 30, 20 or 10 years ago.

It is not altogether clear what this results from. It may result from nothing more than the consequences of the computer revolution and the need for firms in those industries to have minimum computerized bases before they can operate which have created certain economies of scale. It may be nothing more than that.

The other thing I note is that we have had some movement by the chartered banks into this area. They have always been active in the bond market in the sense that they function as a bond underwriter to some degree, and most of them have been quite willing to take orders to buy and sell any kind of securities and pass them on through a broker so that you have to pay two fees. More recently we have seen one of them enter the discount brokerage end of the business, and there is some thrust for them to come into the commercial-underwriting end of the business to some degree.

We have seen the same things in the United States, where participation of commercial banks in the investment-banking business has been prohibited since the early 1930s. If I look abroad to Germany or to Japan or France, I find that these two functions are merged.

I look at the Canadian sector becoming more concentrated. There has been some question in my mind about the viability of the Canadian sector in the presence of international competition and whether it may be sensible to open up the sector to the chartered banks in the full realization that the

chartered banks entering it will probably gobble up everybody that is there, with maybe one or two exceptions.

A reason for doing this would be to ensure a continued Canadian presence in this industry. There is a sense in which the Toronto capital market is an offshoot of the New York market, and there is a sense in which it really is the same market. The concern I would have is that there be a Canadian presence in this field. I would rather see that presence be Canadian banks, Canadian-owned, or Canadian trust companies, Canadian-owned, operating in this sector in the same manner as banks in Japan, Germany or France, than see the participants be subsidiaries of US brokerage firms. I have no particular quarrel with Merrill Lynch, but I would not want to see it be the wave of the future as far as our capital markets are concerned. It is important that if we want to have the domestic capital market, we have institutions in it that do something other than function as originators of business for New York or for London for that matter.

Mr. Foulds: In other words, branch plants would not be a particularly good thing in your view.

Dr. Quirin: I do not think it is a particularly good thing if we want to preserve a capital market. There are reasons for preserving a capital market that relate to the structure of the industry in general, and also relate to the viability of macroeconomic policy in the country. If we lose the domestic capital market, it seems to me we lose domestically generated interest rates. These are a useful tool for policy makers and it is important to keep a capital market for that reason.

Mr. Chairman: Are you finished?

Dr. Quirin: Yes, I think so.

Mr. Foulds: I would like to go back to the first part of the presentation for a moment. We heard this morning--I do not think I am misinterpreting our witness--Mr. Eyton indicate his view that one of the reasons the Continental experience was a successful conversion was that there was a major shareholder.

Miss Stephenson: It was also because they had been able to plough in a huge amount of money when it was necessary.

Mr. Foulds: To stabilize. What is your comment on that view?

Dr. Quirin: I am not sure of the shareholder structure of the finance company that preceded the bank. I do not recall the precise structure of that. I would view a banking subsidiary created in the process of a conversion to be an exception to the rule.

Miss Stephenson: Could I just get this straight about the birth of the Continental Bank which arose from the two parents, one parent being the major shareholder who had bought into what they considered to be a finance company which was the combination of IAC and Niagara, was it not?

Mr. Foulds: Yes.

Miss Stephenson: They were major shareholders in that. Then when the conversion was announced, they were not enthusiastic participants but were persuaded to stay in by the federal government.

Mr. Foulds: By the regulators.

Miss Stephenson: By the regulators. It was the federal regulators--that was the statement--who persuaded them to stay at the same level in spite of the legislation.

Dr. Quirin: The only other point I would raise is that it was only in 1967 that we did away with double liability on bank shares in this country. They performed some of that same function in the early period of some banks, providing the ability to call on shareholders for more contributions.

Mr. Foulds: You indicated that the trust companies, at least in the retail end, have been the most successful challengers to the chartered banks. Do you know if that is true in Saskatchewan as well or, because of the firmer tradition of the co-operative movement, whether the credit unions may have served that function in Saskatchewan?

Dr. Quirin: I am not sure of the precise function. I know there are a lot more credit unions in Saskatchewan than there are here and there are a lot more in British Columbia than here. I used to work for one of them in BC. It certainly played a role in that direction.

Mr. Foulds: From previous testimony or something in this committee, my understanding is that it was the credit unions that first introduced the whole business of the computerized bank; you could get a card to get your money out of a slot.

Dr. Quirin: I am not sure.

Interjection: Someone did say that.

Miss Stephenson: One of the financial institution ministry representatives who was here said that.

Mr. Foulds: You indicated that--it is too tempting for me to pass by--there had been at least one example, if not more, of sloppy management of the Canadian chartered banks. Do you want to name names?

Dr. Quirin: No.

Mr. Barlow: Do you think it is your bank manager?

Mr. Foulds: It is certainly not my bank manager.

Dr. Quirin: I would think, without naming any others, that the Canadian Commercial Bank situation was--I do not believe you can run a Canadian chartered bank from Santa Barbara, tempting as it may be. I was living in Santa Barbara at the time. That was certainly sloppy management. There are some cases of sloppy management in bigger institutions which are no longer independent institutions. I do not think any of those mergers that have taken place since the war were caused by anything other than one of the parties getting into trouble.

15:10

Mr. Foulds: That includes the original merger of the Toronto-Dominion Bank?

Dr. Quirin: Probably.

Mr. Chairman: If the shoe fits, wear it.

Miss Stephenson: It was in trouble.

Mr. Foulds: Yes.

Dr. Quirin: Yes.

Mr. Foulds: Okay, but now you use the Toronto-Dominion as one of the best examples of a well-managed--

Dr. Quirin: In my view it is, yes--and I am not even a customer.

Mr. Foulds: I had one other question and I cannot seem to find it. I will pass at the moment.

Mr. Chairman: Miss Stephenson, Mr. McFadden and Mr. Ferraro.

Miss Stephenson: As a matter of fact, I had interrupted with my question. I have another, but I will let someone else go ahead.

Mr. McFadden: I have a question vis-à-vis some testimony we received yesterday from the chairman of the Ontario Securities Commission, Mr. Beck, whom you may know--a colleague in academia. He made the point with us that, in actual fact, we have as competitive a financial market today as we have ever had in history, and perhaps more so, because not only do we have the chartered banks on a fairly large size but also the trust companies have now entered and so on. Actually, we in Canada have a competitive financial market.

He said this was a desirable thing in view of the fact that things are internationalizing in the capital markets and in the financial markets more generally, and in order for Canada to keep pace and keep growing--essentially, to remain in the race, I guess you could say--we need these large, competitive institutions, which not only can operate in Canada but also can cope with world competition. Would you agree with that observation?

Dr. Quirin: In general, yes. The important thing in our competition is to keep spreads narrow. This probably means institutions that, if there are economies of scale, are big enough to live on a narrower spread. I have the impression--it is very hard to quantify--that spreads are a lot narrower today than they were, say, 35 years ago, which is about the time my first-hand banking experience ended. It is a much tougher marketplace, the spreads are narrow and that is all to the good from the point of view of the users in all respects, because it is a factor that affects international competitiveness and one with which we do not want to handicap ourselves.

Mr. McFadden: May I ask you another question with regard to the financial integrity of institutions? You have talked about the steady blurring between banks and trust companies. One of the points that was made yesterday, and I actually got some additional information on it today separately from this committee, is that the trust companies, in terms of their loss ratios, have a considerably better record than the banks. We heard the figure that it is maybe as much as five or seven times better than that of the banks.

I am curious whether you as an observer, certainly as an expert observer, can comment one way or the other on this. I do not know whether you

have even done a review of it, but the point has been made to us that the trust company sector--notwithstanding Greymac, Seaway and the problem with Crown Trust towards the end of its life in 1983--has been well managed vis-à-vis the banks.

Dr. Quirin: I do not know whether it has been well managed vis-à-vis the banks or not. The thing is that the loan experience of the trust companies has been confined basically to the mortgage lending market and to consumer loans, and its experience on that has been, as far as I know, as good as or better than that of the banks. The banks have been heavily involved in commercial lending to a degree that the trust companies have not. The experience in commercial lending has been less favourable than it has been in the consumer lending field. It is the banks and not the trust companies that have lent money to a variety of oil producers anywhere from Alberta to Saudi Arabia and everywhere else, from Poland to Mexico to Latin America. Those are chartered bank decisions that I will not criticize, but certainly that kind of lending is much more risky than that engaged in by the trust companies, and I think the experience has been that it has been worse.

Mr. McFadden: Have you any figures on the total capitalization of the chartered banks right now? I am not trying to put you on the spot.

Dr. Quirin: I do not have any with me.

Mr. McFadden: A figure that I was given today--and I have not had this independently verified--indicated that over the past 10 years the chartered banks, as a group, have written off \$22 billion in bad debts. That includes Canada and the world. I am curious to know the capitalization of the banks. It might well be in excess of that, but the figure I have been given is \$22 billion.

Dr. Quirin: I do not have that.

Mr. Morin-Strom: Over how long?

Mr. McFadden: Over the past 10 years.

Mr. Chairman: I am curious about your source.

Mr. McFadden: It is one of the major investment houses downtown.

Surely, this is on the public record somewhere, if we bothered to research it. It would be interesting to compare the loan losses of the chartered banks with those of the trust companies under provincial administration, and take a look at them.

We are talking about financial integrity, which is our main focus. It has been suggested to us that is the focus of the province under the new legislation and, presumably, over the past number of years. Given the federal regulatory regime and ownership and management requirements, I am interested to know how all these sums fit and how any loan losses that relate to capitalization were compensated for. That seems to me to be a fairly significant number, but maybe in the context of their total borrowing operations, it is a small amount.

Mr. Chairman: It is about \$1,000 per year per person for every man, woman and child in Canada.

Mr. McFadden: Yes. I am curious whether you have seen that figure.

Dr. Quirin: I have not seen that figure.

Mr. Chairman: They have never written off any of mine.

Dr. Quirin: There have been fairly large sums. I would not think they would be quite that large, but I may be mistaken.

Mr. McFadden: Perhaps I will give our researcher the information.

Mr. Bond: I will check with the Canadian Bankers' Association.

Mr. McFadden: I can give you the name of the person who gave me the information, and you might see where it came from.

Mr. Morin-Strom: Each of the banks is managing capital in the range of \$50 billion and \$100 billion. The Royal is in the area of the \$100-billion figure, and I think the smallest, Toronto-Dominion, is more than \$50 billion.

Mr. McFadden: Those are assets.

Mr. Morin-Strom: Those are total assets and total liabilities.

Mr. McFadden: Administered.

Mr. McFadden: I am talking about capitalization. It is considerably less than that.

Mr. Morin-Strom: That is something different, but if you are talking about bad debts, if you are talking about \$50 billion to \$100 billion in liabilities that they have out at any one time--

Mr. McFadden: The \$22 billion may not be that large. I am curious to know how it all fits together.

Mr. Chairman: I corrected that; it is \$100 a year per person. That is not so bad.

Miss Stephenson: The other thing that is important about that is how it compares with the same experience of similar lenders in other lending countries.

Dr. Quirin: There is a danger if we compare it with the trust companies--

Miss Stephenson: We cannot.

Dr. Quirin: --because of the difference in the character of the loan portfolios. As I said, they are overlapping blobs, but they are not identical blobs. The experience of the major United States money centre banks in those markets has been no better and probably worse than that of Canadian banks, because of their heavier involvement.

Miss Stephenson: How about the British banks?

Mr. Haggerty: But you said real estate and property. If you happen to make a bad loan in that area, the mortgage is called in and the property is

put up for resale. They can sell it over and over again and always show it as a profit on the other side of the ledger.

Dr. Quirin: There was a theory that they could do the same thing in the oil industry.

Mr. Haggerty: Six per cent every time is a good profit.

Miss Stephenson: They can, but it is not quite so immediate. It may take only a century.

Mr. Foulds: Or a millenium. I think it is worth having our research people investigate this. Going from a very faulty memory, I recall one time when I was in Minneapolis on a weekend watching some baseball games--because it is closer than Toronto and the Blue Jays were playing--I happened to read a story in the Minneapolis papers about the international debts incurred by banks. I believe they specifically mentioned the Bank of Montreal and its debts in Mexico and Brazil. They were very large, as I remember it.

15:20

Miss Stephenson: Very large, yes.

Mr. Foulds: I remember the figures quoted being very large indeed. As a customer, I took note. So it might be very well worth tracing this down.

Mr. McFadden: Where it is relevant here is that for purposes of the depositor--and I know the trust companies are anxious to get into a lot of areas and I do not see any reason to hold them down--it is just that very clearly, we do not want to prejudice the security of the depositors or run any further risk than necessary for the Canada Deposit Insurance Corp. by amending the law in a way that will impair the companies. It will put attractions there that otherwise could impair them, since the banks seem to be in it anyway. It would be worth looking at.

I was startled by the figure, but then I was not sure of the context in which it came. We would have to look at the context and say it may be a fairly average sort of figure, given the asset based on the amount of business that is going on. Perhaps that is something we might have a look at.

Mr. Chairman: Have you any more questions, Mr. McFadden?

Mr. McFadden: No, thank you.

Mr. Ferraro: Professor, carrying along the lines of my colleague's concerns and questions, I think it almost begs a question. Do you think in the spirit where we have regulation for trust companies and co-ops, there should be some regulation of the amount of non-Canadian investment a trust company can make on foreign soil?

Dr. Quirin: I do not really see anything wrong with an international banking presence, if you like, headquartered in Canada. I guess that is really what we are talking about. At one time Royal Trust had a presence in the banking business in Florida, but I do not think it does any more.

Mr. Ferraro: No, it does not.

Dr. Quirin: I do not think there is anything wrong with that sort of

thing. It adds some degree of diversification to the portfolio of the institution if it is capable and does not do anything to hurt the security of the depositor particularly.

Mr. Ferraro: You would almost think, if the major banks are making investments--and let me use the example--in Mexico or Poland, that there is some agreement or insurance from the federal government if the trust companies were in a position and they are growing--look at some of the larger ones--to make that kind of investment. Would you agree that should be mandatory?

Dr. Quirin: No, it should not be mandatory. If they want, they should be able to do it. We are talking about two kinds of investments. One is the ownership of foreign subsidiaries and involvement in the business elsewhere. Historically Canadian banks have, in their foreign operations, maintained foreign loans roughly in balance with foreign deposits. When you get an extreme situation, as happened in Cuba, where the assets are nationalized, basically they shed liabilities as fast as they shed assets so the operation in the rest of the world is unimpaired, except for the loss of a slight amount of earnings. But the amount of capital employed is also reduced so it does not even affect the capital employed very much.

That is a far different matter from lending money to Argentina, Mexico or Brazil, or some of the oil company situations we have seen internationally. In some cases you are lending money raised from Canadian depositors, or maybe depositors in the United States, but certainly from depositors in North America for deposit in another continent in another currency, into a political situation Canadians probably do not understand any better than the Americans do. The American banks get clipped as well. I think that is a fairly high-risk business.

There is an awful lot of evidence about the foreign bond issues by American underwriters during the 1920s and up over the preceding 50 years. They were just a disaster area. I would not object to having foreign branches. I do not mind if we want to set up branches in Brazil, take deposits and hold assets down there equivalent to the deposits they raise locally, but I am concerned about raising funds here and lending them in Brazil because that is a different matter.

Mr. Ferraro: Let me ask another question in a different vein. I know that at one time the Bank of Montreal owned 10 per cent of Royal Trust, and indeed the Toronto-Dominion Bank owned a piece of Canada Permanent. I do not know whether it still does.

Dr. Quirin: The Canadian Imperial Bank of Commerce owned part of National Trust and the Royal Bank owned part of Montreal Trust.

Mr. Ferraro: Is there a problem with that?

Dr. Quirin: It was appropriate to the time when it took place. Those institutions have outgrown the need for that kind of mutual support, and it is better to have them compete with one another.

Mr. Chairman: They have complementary services.

Dr. Quirin: At one time they were complementary services and they did not overlap.

Mr. Ferraro: There is still some overlap today, because the banks will use trust companies for their registered retirement savings plans and trust companies essentially will use banks for their banking. In fact, Royal Trust uses the Bank of Montreal.

Dr. Quirin: Yes, a vestige of those relationships still exists; I do not think there is any question.

Mr. Ferraro: But you do not have any apprehension today about a bank owning 10 per cent of a trust company.

Dr. Quirin: I do not mind its owning 10 per cent. I would be concerned if it owned half.

Mr. Ferraro: Let me ask you a couple of basic questions that will probably take two courses for you to answer. We are concerned with the concentration of financial institutions in our sphere, and we are in the middle of a free trade debate. How do you react to a free trade agreement in the financial services sector?

Dr. Quirin: With respect to the banking area, I do not think there would be a terrible problem. The institutions we have are big and strong; they can compete effectively. I would be less concerned about it there than in some manufacturing sectors, certainly. Many of the Canadian banks do operate in the United States to the extent that they are allowed to do so by US law, which is very--

Mr. Ferraro: Stringent.

Dr. Quirin: --restrictive in terms of where they can operate. CIBC had a subsidiary in California that was a very effective participant in that market.

Mr. Ferraro: The Bank of Montreal had one too.

Dr. Quirin: The Bank of Montreal owns Harris Bankcorp. I am not sure we do not really have it even without an agreement, except that we have the constraints on the schedule B banks.

Mr. Ferraro: I hope my colleague Dr. Stephenson pursues her question about major shareholders and the effectiveness of directors. My final question is, what general advice or direction would you give people in this room, the government of Ontario, for dealing with corporate concentration in the financial sector?

Dr. Quirin: The advice I have is, do not be too concerned with it in any individual market. Be concerned with it perhaps in the overall financial sector, but use the opportunity you have to expand the presence of strong institutions into adjacent parts of the marketplace so that we get more competition all around, without necessarily any reduction in measured concentration but with a real increase in actual competition.

Mr. Foulds: When you say that, do you mean increased competition within what are traditionally called the four pillars, or across the four pillars?

Dr. Quirin: Across the pillars.

Miss Stephenson: Between.

Dr. Quirin: Between.

Mr. Foulds: We are talking the same language.

Miss Stephenson: One of the factors that seems to be emerging in all of this is the role of the director in a financial institution of any sort in terms of the responsibilities he assumes. I am beginning to gather that there has been an overwhelming concern on the part of the directors--and I may be entirely wrong--for the health of the institution per se and the welfare of the shareholders and, for many, there has been precious little concern about the general health of the depositors or of those who use the institutions.

15:30

My concern primarily is about the ways in which the role of the director can be defined or delineated and whether there can be some type of structure or organization--I do not know what--that will ensure the three responsibilities as I perceive them, and there may be even more. Certainly the financial integrity of the institution is absolutely essential if it is going to survive. The shareholders have to have some attention paid to them; otherwise, the integrity, or at least a considerable part of it, will be gone. The depositors have to have some type of security as well. I do not think we can depend only on the taxpayers of Canada to ensure that this concern is met in the rare circumstance where something goes belly up and we have to provide funds. There has to be a day-to-day concern. How do you do that?

Dr. Quirin: It comes back to management. In my recollection, the involvement of the taxpayers through the Canada Deposit Insurance Corp. arose because of a concern over some of the trust companies in the early 1960s and over their ability to meet their obligations. I have a concern--we will take the banks as an extreme example--that there are too many decorative boards of directors that have a large number of people who would refuse responsibility if they had any at all because there are so many.

Miss Stephenson: Do they do anything?

Dr. Quirin: It is difficult to perceive just what they do, if anything. They are there to fire the president, and they may have to do that only every 20 years. As long as they do it in time, it may be worth paying them for the 20 years.

Miss Stephenson: There have been a couple of times where they did not do it in time.

Dr. Quirin: The problem with that function is that, at the same time, they typically get appointed by the present president, and it takes a great degree of public concern to take further steps at the expense of the person who appointed you. Therein lies the problem.

Miss Stephenson: It is inbreeding within the banks, but are there mechanisms that can be put in place to resolve that difficulty?

Dr. Quirin: I wish I knew of any. One obvious answer is to increase the potential liability of directors. There are enough firms having problems getting insurance for directors' liability as it is, and if you do not have insurance, you will not get any directors. I do not think it does anything

except to dump it onto an insurance company. The insurance market is already overloaded.

Perhaps one could move in the direction of saying that there is some fraction of the board that is in fact elected by the depositors. There is certainly a precedent for this in situations where preferred shareholders in a number of corporations elect a certain portion of their board under certain circumstances. This is really an extension of that to say that some of them should be elected by the depositors. I do not think it would drastically upset our way of life if some of them were elected that way as opposed to being elected by the shareholders on the advice of management.

Miss Stephenson: You are really saying that you have to have a radical change in the way in which the totality of directors is elected to resolve anything. Is there anything that can be done with the current way in which it is done?

Dr. Quirin: Other than to change the liability of directors, I do not think so.

Mr. Morin-Strom: May I just pursue a point on that? It seems to me that the problem the boards of the banks have is that a lot of the directors are the chief executive officers or key officers of companies to which they lend money. If you took a look at the board, you would find a remarkable relationship between that. You would seldom, if ever, find on a board somebody from a company to which the bank does not lend money and which deals with a competitive bank.

One of the ways I think you could do it would be to require either that none of those people could be on the board or that a fixed amount be set so that a director or other officeholder of a company with which the bank does business cannot hold office.

Dr. Quirin: It would be useful to restrict the number of seats on the board so that they could not be. You are right. There is a propensity for bank boards to be honorariums extended to good customers.

Mr. McFadden: In fairness, there are a lot of directors who do not fit that bill.

Dr. Quirin: There are some who very clearly do, and it seems to me that it would be appropriate to discourage that. The other thing that would be useful would be to go back to the requirement that the directors own a significant number of shares. There are some very small shareholders among Canadian bank directors, as far as I know.

Mr. Haggerty: Just to follow on that point, should that not also apply further than that, though? Say that you get a director who is also head officer in a company. Should it not also apply to government appointments? For example, for years the Senate has been a club for chief financial people in Canada, businessmen in Canada. In the long run they have had some influence on legislation benefiting their particular interest in a corporation. Go back and look at the numbers who wanted to be appointed to the Senate for that reason. Some have not been successful, but others have been, and they still carry that. What I am driving at is that there is a conflict of interest.

If you follow it through, we are talking about the power structure and the conflict of interest within the sector. It also applies that they move into the government side too.

Dr. Quirin: It does, potentially. There have been some very blatant cases on the Senate committee on banking, without naming any names.

Miss Stephenson: But when they were dealing with drug distribution and those problems, the Senate committee on banking was really quite independent. It was very good.

Dr. Quirin: Yes. The Senate is very capable of putting those things behind it. I do not want to condemn the Senate and, for the record, I am sure that the bank directors are very careful to declare conflict of interest where loans to their own companies are involved. Beyond that, you have a problem with log-rolling.

Miss Stephenson: What you are really saying is that there is an insufficient number of truly independent directors.

Dr. Quirin: I think that is a problem.

Miss Stephenson: If that is a problem for banks, then surely it must be a problem in other financial institutions as well.

Dr. Quirin: It is a problem in all financial institutions. I am not sure there is not a problem across industry generally. It was clear from my discussions with people who are concerned with the director problem that they have problems finding people.

Miss Stephenson: Do they look very hard?

Dr. Quirin: Some do.

Mr. Morin-Strom: I want to pursue a similar point. I am particularly interested in the aspect of responsibility towards the owners versus responsibility to depositors, which is particularly distinctive of financial institutions compared to industrial corporations or most other sectors of the economy.

There is an obvious responsibility in the management of a financial institution. I would think that, first and foremost, the government wants to have assurances that a financial institution is being managed in the best interests of the depositors, over and above the shareholders. In the vast majority of cases--and I am talking about the average citizens--the depositors are not looking at their money in a bank or trust company as an investment; they are looking at it as savings, and they go in with a perspective that there is absolute security for that.

About banks, you seem to be saying the directors are an issue, but in some sense they are not an issue, because the control and the decision-making, the power, is not in the hands of the directors; the power in terms of the management of that institution is in the hands of the chief executive officer or senior executives.

15:40

Do you have confidence that the banking system is particularly good in the sense that those who do have the power in the running of that institution are ensuring the absolute security of the holdings?

Dr. Quirin: They are very conscious of the need to look at the absolute security of those holdings. You are quite right that the management is in the hands of the professional managers and not in the hands of the board. To go back to what I said earlier, the full board exists basically to fire the president if that becomes necessary. If it does not do anything else and it does that promptly when the need appears, it has earned its pay. It is an oversight function rather than an active involvement in management.

As far as I know, the managements of banks and of trust companies are all quite concerned with the safety of the depositors. They are uniquely different from the industrial company situation in the extent to which they rely on borrowed as opposed to equity funds. If you look at the typical industrial, it may have bonds outstanding; it does have a trustee; it has someone who is looking after the interests of the lenders. He is not on the board, but he is watching, he is paying attention to it. The amount of borrowed funds that is being used is relatively small compared to that of the average financial institution.

In the case of financial institutions, we have not pursued government structures that give any particular recognition to that fact. We have pursued government structures that are those of the joint stock company without any particular differentiation. The management is certainly aware of it, and I think fairly keenly so in the case of the banks.

In some smaller institutions from time to time they get management that has an empire-building notion that it would like to be X per cent larger than it is, and to become so, it does several things. It invites deposits at rates of interest that are better than those prevailing in the market generally in order to get more, and then it lends those funds at slightly higher interest rates to slightly more dubious credit risks than the rest of the market lends its money to. When you eventually have the combination of those two things, it leads to disaster. It is a very strong temptation.

For example, I might see this big place across the street. It is a 20-storey building, and mine is only five. If I can only do this and be manager of that, I can command a higher salary, more prestige in the community and so on.

That often gets confounded with a bunch of things. It is confounded first with the notion that it is the customers and me against the banking monopoly, that myth of prairie fame, which I certainly grew up with in one bank in Alberta, the notion of banking monopoly.

I say to myself that, generally, I am more generous to my depositors than that nasty bank down the street. I am giving customers a break. You get customers believing that and starting to throw money at this institution in local areas, and there are plenty of cases where this has happened. The first thing that happens is that if you lend that money prudently, you do not have any spread left to run your institution, so you lend the money a little less prudently, and maybe a little more imprudently. Again, it is easy to dress yourself in the populist garb and say, "I am doing better for the borrowers than the banking monopoly, because I am letting them have money that the banks would not let them have." You have done those two things and you are a wonderful guy, and all of a sudden you have an institution that is failing. I think it happens.

Mr. Morin-Strom: I would like to move a little further in a little different direction perhaps from what I was getting at first. I talked mainly

about the banks. As a depositor or general citizen, I feel I have faith in the banks, that there is absolute security in a savings account in one of Canada's chartered banks. I have far less security when it comes to a trust company which has one major owner.

The point I want to get at concerns those people who are in control and who are making the decisions in the banks. If it is not the board of the directors, if it is the top managers, there is some feeling that because of a diverse ownership perhaps that may be a part of the reason why a very heavy focus is on the absolute long-term security of the institution and on the deposits within that institution.

There is a very strong concern that when there is one family--the Belzbergs controlling First City Trust, the Reichmanns in Olympia and York Developments involved in Royal Trust, Jackman involved in E. L. Financial Corp. or the Eatons in Eaton Bay Trust. I do not have anywhere near the security that those institutions are secure in the long run. We have seen what can happen with major family holdings that are extremely powerful. The example I throw out is the Hunt brothers, one of the most powerful, most wealthy families in the world up to a few years ago, and their empire is tumbling all around them. Are the decisions that are being made in those trust companies first and foremost in the interest of the depositors or are they being made in the interest of those major shareholders?

Dr. Quirin: When I look at the older, bigger trust companies I do not differentiate them from the banks particularly, but I agree with you. I would have concerns about depositing in some of the smaller, one-family loan trust companies. It is not that I have any particular concern over that individual family, it is just that the situation can change very fast. The Hunt situation changed. There is no difference in the United States with Rockefeller controlling the Chase bank at one stage and the Citibank at a later stage or the Mellon Bank in Philadelphia. I do not know if it is.

Mr. Ferraro: Is that not only if you have over \$60,000?

Dr. Quirin: Yes. It is only if you have over \$60,000, not that they do, I do not think. I am still obsessed with the habits acquired before we had deposit insurance, and I have never been aware of a time in which I could not have made a half per cent more by moving my savings account down the street to something or other that I had never quite heard of, but that said it was a trust company, not necessarily in Ontario, but in other provinces, where I grew up. I have always been somewhat hesitant to do it, for the very reasons you mention. I do not know who runs it. I know the Royal Bank or the Bank of Montreal or even the Continental and probably even the Bank of British Columbia are run by professional bank experts concerned to run it on a professional basis.

They are not entrepreneurial people. This is an area where it seems to me that limited entrepreneurialism or fairly restricted entrepreneurialism is appropriate. They are, if you like, very experienced, very capable bureaucrats. They are responding to market pressures to the extent that there is competition in the marketplace, but they are not going out to innovate. There is nothing new to invent in banking other than differently shaped credit cards. Relatively speaking, the basic things that banks do are the same things they were doing 150 years ago.

Miss Stephenson: One of the things that concerns me, which is something of a supplementary to Mr. Morin-Strom, is the fact that we all

appear to be seeking absolute security in whatever we do in the financial sector, and I am not sure we have any more absolute security in the financial sector or should expect it than we have in any other sector of our lives. We sure as hell do not have security in almost all the other sectors. You anticipate that you are going to be dealt with fairly and honestly and that is the kind of security that you need.

15:50

Dr. Quirin: It is all you can basically count on. I certainly am aware of a thrust in our society to look for absolute security. It is evident everywhere in private liability legislation from car insurance to banking. I was raised as a kid on the notion that this country had not had a bank failure since the Home Bank in 1923 and that was good enough for everybody. It was not until you got the involvement of trust companies in the banking field that you had any need for deposit insurance. I do not think there was a chartered bank in this country that needed deposit insurance until 1985.

Mr. Chairman: You still have security in the value of the dollar, though.

Miss Stephenson: What security is that, old boy? You are not old enough to remember when a dollar was worth a dollar.

Mr. Chairman: I have been seeing it slip. Supplementary to Dr. Morin-Strom's question, do you see any change in the extent to which depositors are monitoring trust companies, etc. since it has been the case that governments have tended to bail them out even over and above \$60,000?

Dr. Quirin: I do not really see any change. There are not that many people with more than \$60,000 anyway. You are seeing what you see in the United States, where I think deposits in savings and loans are still insured to the extent of \$10,000. You find that there are institutions that operate basically on behalf of savers in certain parts of the country and you put \$10,000 each in a string of 20 savings and loans, if you want to invest that much money, so that all of it will be insured, usually in California savings and loans which are a little peculiar relative to the rest of the country.

You take your \$200,000, put it in 20 savings and loans and you are insured for \$10,000 in each of them and you do not have to bother with it. As long as you are insured, you are not going to bother assessing how solid the thing is. I have grave doubts as to the capability of more than two per cent of the investing public to make any reliable assessment of whether the thing is going to fail next year, even if we had more disclosure on balance sheets of financial institutions than we now have.

Miss Stephenson: Do you think they can make an appropriate assessment of where they are going to be best served in terms of their requirements as individual depositors?

Dr. Quirin: The thing that deposit insurance has done is it has taken out the safety factor, for better or for worse, and that really boils down to a question of convenience or, "We will deal here because the bank manager is"--

Miss Stephenson: Friendly.

Dr. Quirin: --"friendly and I know that if I want to buy a bigger car next year, he will give me a loan." Maybe that is what most people want. I do not know.

Mr. Chairman: Maybe they will give you a radio.

Dr. Quirin: Or a solar-powered calculator that has been totally useless this summer.

Mr. Chairman: Mr. Foulds remembers the question he forgot before.

Mr. Foulds: I was interested in your early comments about the banks in Britain, I think you said, that moved into California.

Dr. Quirin: Yes.

Mr. Foulds: Then subsequently in your remarks I think you said Royal Trust was fairly active in--

Dr. Quirin: In Florida.

Mr. Foulds: In Florida?

Dr. Quirin: Yes.

Mr. Ferraro: The second largest bank.

Mr. Foulds: Can you explain why the British banks that are in most peoples' views so traditionally staid moved into California? You said they were invited in.

Dr. Quirin: One things is that there has been a trend to internationalization of financial markets generally. The other thing is that the ones that you find there are the clearing banks, the National Westminster, Barclays, Lloyds and so on.

Mr. Foulds: The Midland?

Dr. Quirin: The Midland, and that is it. They are all a rather major presence in California. With the growth in the city of London financial market in the postwar period, most of the clearing banks found themselves left out. The merchant bankers did all that business and they did not agree with the attempts of the clearing banks. The clearing banks basically looked for other fields to conquer and that is why they are in the US. You will find the Hong Kong and Shanghai Banking Corp., which is another British bank, having major investments in Buffalo.

Mr. Chairman: Are there any other questions?

Thank you very much, sir. Obviously, the committee has been very interested in your views.

Miss Stephenson: It has been most instructive.

Mr. Chairman: It has been very instructive, yes. I appreciate it very much.

We will adjourn until Tuesday next.

The committee adjourned at 3:57 p.m.

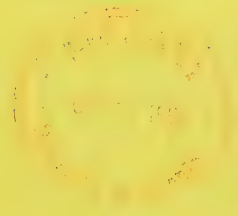
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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

TUESDAY, SEPTEMBER 30, 1986

Morning Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)
Ashe, G. L. (Durham West PC)
Barlow, W. W. (Cambridge PC)
Ferraro, R. E. (Wellington South L)
Foulds, J. F. (Port Arthur NDP)
Haggerty, R. (Erie L)
Henderson, D. J. (Humber L)
Mackenzie, R. W. (Hamilton East NDP)
McFadden, D. J. (Eglinton PC)
Stephenson, B. M. (York Mills PC)
Ward, C. C. (Wentworth North L)

Substitution:

Poirier, J. (L) for Mr. Ferraro
Callahan, R. (Brampton L) for Mr. Ward
Hennessy, M. M. (PC) for Mr. Barlow
Morin-Strom, K. (Sault Ste. Marie NDP) for Mr. Mackenzie

Clerk: Mellor, L.
Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witness:

From E-L Financial:
Jackman, H. N. R., President

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday, September 30, 1986

The committee commenced at 10:05 a.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: Good morning. This morning we have Hal Jackman with us.

Mr. Jackman, we appreciate your coming this morning. I indicated before we started, we are really just probing into what to many of us is the very mystical world of high finance, and we appreciate anything you can tell us that would be of assistance.

I see you have a prepared report. Perhaps you can briefly lead us through the highlights of that.

Mr. Jackman: Thank you, Mr. Chairman.

I thought I should perhaps briefly comment on--which I gather is the subject of this Committee--the question of the concentration of the financial services industry, and then talk about ownership limitations and self-dealing, and then perhaps a few words about my own company. And I have handed out a summary of my remarks, but I would like--perhaps the members might like to refer to a table that is on page 2 of my remarks.

The Financial Post survey--once a year, the Financial Post puts out a book, this book here. It comes out in the summer, and it is the "Financial Post 500," which is the top 500 companies in Canada. It ranks them by size, based on sales, based on assets. It also ranks the top 100 financial institutions, based on size of assets, and the 100--I have broken down the 100 largest financial institutions, which range from the largest, being the Royal Bank of Canada with something like \$96 billion of assets, to the 100th financial institution, which is a company, an Italian--a small foreign Italian bank in Canada with assets of less than one-third of a billion.

And you can see from this table, breaking them down into five categories: the widely-held institutions, which are primarily the large Schedule A banks; the foreign-controlled institutions, which are primarily foreign-controlled banks; and then there are--of the 100 institutions, there are 8 government-owned institutions; there are 18 co-operatives and credit unions; and only 18 out of the 100 are Canadian-owned, closely-held financial institutions where a single controlling shareholder or a group of controlling shareholders can be identified.

Breaking them down by assets, the widely-held companies,

which of course include the large banks, control \$413 billion out of a total of \$613 billion. The closely-held companies, which is the last category, control \$48 billion, or only 7.8 per cent of the total financial assets in the system.

So that figure, I think, is significant. So that if you add up all of the total assets of all of the closely-held financial institutions in Canada, they do not total the assets of any single one of the five largest banks. So that any discussion of concentration of power in the financial system in Canada must be viewed in how the others relate to the predominance of power within the banking system, and particularly the five large banks in Canada.

Now, there are a lot of historic reasons, that I do not want to get into, why we have so few large banks in Canada. In the United States, of course, they have a very different system with, I think, something like 17,000 banks. I would point out, though, that in our opinion Canadians may have paid a steep price in accepting such a high degree of concentration in our banking system. Large banks have tended to mean large loans to a few large borrowers, and may have contributed to the concentration of corporate power in the non-financial sector of this country.

Similarly, a perceived feeling that regional interests have not been served by the large banks with their head offices in Montreal or Toronto has led to the growth of the credit union and co-operative movement, which is much stronger in this country than in the United States. Provincial governments, which have tended to be more conscious of provincial and regional needs, have encouraged the growth of trust and loan companies, where it was perceived that decision-making would be closer to the region involved. And thus, we have seen in recent years the proliferation of trust companies, most of whom have been provincially chartered.

Now, on the question of ownership and self-dealing, I would be happy to answer any questions on whether--you know, should financial institutions be controlled by one shareholder or a few shareholders, should there be a 10 per cent share limitation. This subject has been debated ad nauseam in the last four or five years.

I think at one point the bankers--certainly the former Inspector General of Banks, Mr. Kennett, who has since retired, took the position that all failures were caused by bad owners. That was an article of faith. Since then, of course, even the bankers have had to back away. I see in the paper today another widely-held bank appears to have failed and will be taken over or put together with some other financial institution.

I mention in this brief that the Federal Superintendent of Insurance, Mr. Hammond, has reported to the House of Commons committee similar to this one outlining the causes of 11 federal failures, and only in one of them, one grouping, was self-dealing by owners identified. The Chairman of the Economic Council made a comparable study, and of the 21 companies he named--of the 21

failures, in only 2 groupings was self-dealing by owners the cause of failure.

And I think, without dwelling on this point any further, I think it is simple--you just come to the conclusion that you just cannot generalize and say that, in every scenario, owners are good or owners are bad. Some, obviously, like in the Rosenberg situation, owners were bad. There are lots of other cases, like companies that National Victoria and Grey has acquired, which failed because there was no ownership presence at all.

You just cannot make sweeping generalizations. And I guess, for this reason, we support the bill that is, I understand, before you, which would give the Minister or give the provincial government the power to prevent transfers of ownership, of control of trust companies to other people. How that should be used--how that power should be used is, I think, something that the Minister would have to look at at the time. I do not think you can make any sweeping generalization and say that only financial institutions should control financial institutions, and not companies in what they call the "real world," or in the industrial world.

I think if Imasco, for instance, had wanted to acquire control of the Royal Bank, there would have very rapidly emerged an opinion that that was against public policy. But then again, if Imasco had wanted to take control of the Canadian Commercial Bank and put in \$500 million or something like that, then I am sure everybody in Canada would welcome it. So you just simply cannot generalize.

On the question of self-dealing, we support the present legislation--the draft bill which is before you. We believe in a virtual, a complete ban on self-dealing.

We recognize that there are certain--there will inevitably be some transactions between companies and their affiliates which are entirely appropriate, but in those cases we think the company concerned should go to the Minister or the regulator and get prior approval before such transactions are entered into.

As you now know, trust companies and loan companies in Ontario are not allowed to make loans to their directors or their major shareholders. The draft bill before you would broaden that to include sales of assets or real estate between owners. And we support those suggestions.

We also believe very strongly that the self-dealing provisions in the Ontario bill should be applied to the Canadian chartered banks. There are no self-dealing rules in the Bank Act. In fact, loans to directors of banks are so commonplace that that is really the prime reason to become a director of a bank, is that you are a large customer or control a large customer. And in any financial institution, the responsibility of a director must be to have an even hand between the interests of the depositors on the one hand and the borrowers on the other hand; and those two interests are *prima facie*

in conflict, because the depositor wants the highest return consistent with safety, the borrower wants to pay the lowest rate possible and get as much money as possible.

So that if you have a bank where the entire board is made up of large corporate borrowers, then I think unconsciously the tilt of influence in that bank would favour the lenders--sorry, favour the borrowers, as opposed to the depositors. And that of course is what happened, and we have had experience with director-related loans in Dome Petroleum and Massey Ferguson and other well-known cases. So we believe in a complete self-dealing ban between all financial institutions, and we do not believe that loans of any kind should be made to directors.

We support strongly the proposed bill before you, which would broaden the commercial lending powers of the trust industry. It is proposed in the draft bill that we get a limited extension of our commercial lending powers, probably not as much as the trust industry would like, but it is certainly a step.

We are conscious that, the trust companies being smaller, you know, we do not make loans to finance takeover bids and we do not make loans to Latin American countries, and we feel there is a gap in the amount of money--in the availability of credit. There is lots of credit for the large corporations, but if you are a small businessman you can get your inventory financed and your receivables financed, but it is pretty hard to get a bank loan for--you know, if you want to go out and take over the next guy's company.

So that there is a different standard applied for the large corporations and the small businesses. And if you have very large banks, they will naturally relate to their counterparts, which are the large corporations. If you have a number of small businessmen--sorry, small trust companies, who obviously cannot compete to get the bigger loans, they will relate better to the smaller businessmen, and that is one of the reasons we would like expanded commercial lending powers.

Just a word or so about my own company. E-L Financial Corporation is not a conglomerate in the accepted sense. It is simply a holding company. It owns two insurance companies, one of which is federally incorporated and one is Ontario-incorporated. And because for technical reasons it is almost impossible to merge a federal company with a provincial company, there is a holding company structure. But E-L Financial itself has no staff or no salaried officers.

The two insurance companies it controls, Empire Life of Kingston and Dominion of Canada General Insurance Company of Toronto, are run independently. E-L Financial does, however, hold as an investment only a substantial interest in National Victoria and Grey Trust Co., which is, I think, probably significant for this Committee because it is a result of the recent merger of two trust companies, National Trust and Victoria and Grey Trust, which were

the first and second largest companies under Ontario regulation. So that National Victoria and Grey Trust Co., I would suspect, is probably larger than all the other trust companies in Ontario put together. It is larger in an Ontario context. I mean, there are bigger federally-regulated ones, but it is the biggest Ontario-regulated one.

National Victoria and Grey is run independently. Of the 42 directors, only one, myself, can be considered to represent E-L Financial Corporation. Most of the rest of the directors are directors of the predecessor companies which have been amalgamated into National Victoria and Grey over the years. Thus, we have on our board of directors people representing not only Victoria and Grey and National Trust, but directors representing Metropolitan Trust, Kent Trust, Lambton Loan and Investment, York Trust and British Mortgage and Trust of Stratford, which were predecessor companies to the present corporate entity.

Because we are an Ontario company whose roots run deep in this province, 109 of our 143 branches are in the Province of Ontario and we make every attempt to preserve the regional character of the company. In terms of governance, National Victoria and Grey operates with 25 regional advisory boards in Ontario, which approve all loans of any size and significance in their area of service. These regional advisory boards are located in Barrie, Belleville, Chatham, Windsor, Collingwood, Goderich, Hamilton, Hanover, Kingston, Kitchener, Guelph, Lindsay, London, North Bay, Orangeville, Orillia, Oshawa, Ottawa, Owen Sound, Brampton, Peterborough, Renfrew, Sarnia, St. Catharines, Stratford, Tillsonburg and Toronto.

Although we have 42 directors, which some might say is on the large side, we attempt to have each region represented on the full board of directors so that each of the areas of service can be represented on the councils of the company. These men and women represent the depositors in the areas in which the company serves. There can be no question of conflict of interest, and unlike the banks, we do not make loans to our directors or our major shareholders.

The presence of E-L Financial as a major shareholder of National Victoria and Grey does not, in the opinion of the trust company's directors, make National Victoria and Grey a part of a larger conglomerate. Quite the contrary. It ensures the trust company's independence, because without the presence of E-L Financial as a major shareholder there could be little doubt that National Victoria and Grey or its predecessor companies would have been taken over by a larger entity in the last few years.

I would be glad now to answer any questions.

Mr. Chairman: Thank you very much. That was a very straightforward presentation.

Any questions?

Miss Stephenson: One clarification. What is the

membership of the regional advisory committees?

Mr. Jackman: How many members?

Miss Stephenson: No, no. Who are the members of the regional advisory committees?

Mr. Jackman: Well, they are local people of some prominence in the town or the area they serve. They might include a prominent lawyer, they might include a former reeve or a former county warden, in some cases even a former member of the legislature. But they are people who usually have been in the region, or perhaps their families are. And sometimes when you get a loan application, if it comes down to Toronto you can read the figures and know what the figures say, but it is the people in that town who know the family and they know their trustworthiness and they know their credit rating and things that cannot really be put on a piece of paper. And so from that point of view, they are quite valuable to us.

Miss Stephenson: And is there a limitation upon the size of loan which they may authorize?

Mr. Jackman: Yes. There is a--some of the boards are stronger than others, so the loan limitation is different for each one. All loans of any size go to them, but some of them would not--they would not be able to approve without coming to...

Miss Stephenson: Final approval.

Mr. Jackman: But if they turn them down, they would never be accepted at the head office.

Mr. Chairman: Would they be retained or would they be essentially people who would have an equity interest in the company?

Mr. Jackman: A lot of them are shareholders, some of them possibly are not shareholders. I think most of them would be. They get paid. They do not get a heck of a lot, but they get paid.

Mr. Chairman: Mr. McFadden.

Mr. McFadden: Mr. Jackman, I want to thank you for your brief. It is quite thorough.

One thing that struck me is the outline of your company's operations is considerably different from the ones that we have heard from to date. I am just curious, are you aware of any other trust companies operating in Ontario that have any form of a regional advisory board process such as you have? I had not heard of it before. I was just curious. Are you aware of any other companies?

Mr. Jackman: I am not aware of it, but there could be. A lot of the larger trust companies, like I am sure the Royal and Canada Trust, have advisory boards in the cities, like Montreal, Halifax or

Vancouver. You have to remember our company's history is so different, though, you see.

The Royal Trust started as a fiduciary in Montreal. We started as really savings and loan societies in Lindsay, Stratford, Owen Sound, Sarnia and a few other--Peterborough, and these companies merged, and of course they wanted to keep their local character. So you know, our history was different. We just grew up differently.

Mr. McFadden: I happened to be at an event, I guess it was Friday night, outside of Toronto, and I was sitting beside a vice-president of one of the chartered banks. I will not mention who it is because it might embarrass the bank. But this bank vice-president--we got talking about the trust industry and banking and concentration of ownership, and this particular individual said that effectively Victoria and Grey has been the only financial institution that has consistently serviced rural Ontario. He said his bank does not, and most other chartered banks have backed out of small-town rural Ontario. And he was highly complimentary. As a competitor, he was very complimentary.

And the thing that struck me is that a part of the answer to that might well be the regional advisory board concept, which ensures that your management is sensitive to rural Ontario, besides just the past of the company and the fact that it is really an amalgamation of many small companies all across the province. I would think that this has had the beneficial effect of keeping regional interests there. It is interesting your competitors even are well aware that Victoria and Grey is the one company that rural Ontario, at least, has been able to rely on through the years.

Mr. Jackman: Well, I think it is because, as I said, our board of directors--the chairman of these is usually, not always, the director. And it is just like a caucus meeting or a Cabinet meeting, and they say, "Well, that's fine, but--that's a nice loan for them, but what about us?" You know, this kind of--so you do get that kind of pressure, you know: are we doing our share for all the various areas where we have our branches.

Mr. McFadden: Dealing with directors, we have had submissions over the last couple of weeks dealing with the accountability of directors and what the appropriate role of directors are. It has been suggested that in a financial institution, at least, a director is not and should not be solely responsible only to the shareholders, as would be the normal case in a manufacturing company or another enterprise, but in fact the directors have and should have some responsibility to depositors. How do you feel about that particular line of reasoning?

Mr. Jackman: Yes, I do. I mean, I agree. It obviously has to--the first responsibility of any director is to see that the company remains solvent, but if the company is insolvent, the shareholders are wiped out. You know, before one depositor loses one cent the

shareholder has lost everything. So we have got that very much in mind.

The shareholder--the director, as I said, has to take a very even hand. If he is too conservative, you know, the company will not grow and will be eaten up by its expenses. So he has to take some chance, and if he does not make--be a little bit venturesome in loans, the country will never grow, businesses will not be financed.

But I see nothing wrong in principle with depositor/directors, and directors designated as such. In fact, at one point earlier on when I was discussing this whole matter with the previous government, I suggested that why doesn't the government, if they would feel happier, pick depositor/directors.

Now, the federal life insurance companies have I think it is a quarter of their board are designated as policy-holder directors. They are not allowed to own shares and they are designated as policy-holder directors. In a life insurance company, it might be--you can see more potential conflicts between the policy-holders' interest and the shareholders' interest.

In a deposit-taking institution I am not sure that the conflict is there, because it certainly does not get anything unless the policy-holder is paid off in full. But I have no objection to depositor/directors.

Mr. McFadden: One of the things that has been raised has been the appropriate level of outside directors versus inside directors. Now, I gather your company's directors are all outside directors. Is that correct?

Mr. Jackman: That is right.

Mr. McFadden: One of the things that we are having to consider potentially is the appropriate level of outside directors. Now, it has been suggested, in the new legislation, 30 per cent. What is your reaction to that? Do you think that figure is quite satisfactory, do you think it should be left up to the company, or do you feel it would be preferable to have a higher percentage?

Mr. Jackman: No, I think it should be higher. I think the majority should be. Defining outside directors as non-management directors, and presumably directors not representing a major shareholder with shareholder control, I think it should be higher. But I do not--as I said, in our case, National Victoria and Grey, I guess I would be perceived as representing E-L Financial, but none of the rest are. Yet I do not think there is any difference. I mean, I do not represent E-L Financial, I represent all the shareholders, and the other directors represent me.

This business of categorizing some directors representing him and some representing others, I think is basically a wrong concept of the financial institution because it implies that the owner

has a different interest than perhaps the minority owners. So I guess I think that the majority of directors should represent all of the shareholders, which would make them, by your definition, outside directors. More than 30 per cent.

Miss Stephenson: Can I just ask a supplementary there? Are you really meaning, then, that the role of the director is the same no matter from which source the director comes, provided that your rule against self-dealing or dealing with any director or the company of any director could in fact be upheld?

Mr. Jackman: That is right. I believe in the self-dealing rules, and I think when you are a director of a company, legally, you are not there to represent one group; you are there to represent all of them. That is what the law says.

Miss Stephenson: That is the way it is supposed to be, yes.

Mr. Jackman: In terms of corporate governance, I do not like the idea of directors representing special groups. I would like every director to represent everybody, all the shareholders or all the depositors.

If a fellow comes there as the representative, or perhaps he is on salary by the principal owner, by implication he is there because of that reason. And that might, perceptually, disqualify him from appearing to represent everybody. So I think the people who represent everybody, including those, including everybody, should be in a majority, which by your definition is outside directors.

Mr. McFadden: Could I explore one final area, Mr. Chairman? It relates to ownership and the whole question about the appropriate levels of ownership by any single individual or corporation.

It seems like there are three models that we have been dealing with. One is the Bank Act model, 10 per cent and no more, on the theory that a broadly-held company does not lead to problems with major shareholders and conflicts of interest and self-dealing and so on. We have the other end of the continuum, I guess you could say, where the one person or one group owns 100 per cent. And then we have the whole area in the middle, as you develop a major shareholder, and the major shareholder can only have from 10 per cent presumably to 99 per cent.

You have set out in your brief an argument in favour, as I understand it, of a major shareholder existing. What is your feeling about the wholly-owned trust company versus the major shareholder company?

Mr. Jackman: I have no objection to a trust company being wholly owned by one shareholder. The only caution I would have is that if it is wholly owned, it is not--presumably, that company is not subject to normal Securities Act reporting, it does not have to issue quarterly statements, maybe it does not have any outside directors.

And even if it did have outside directors, any problems would not surface in the press or in financial statements which were available to the public. And that bothers me a little. I think the public scrutiny is very important.

So that if a trust company was wholly owned by some group, I still think it should have to publish its annual reports for the public, and quarterly reports, the same as everyone else, so that there still would be public scrutiny on it.

Mr. McFadden: Thank you, Mr. Chairman.

Mr. Chairman: Mr. Callahan.

Mr. Callahan: Yes. I would like to go into just a little different area. Victoria and Grey would be governed by the deposit insurance requirements, would they not?

Mr. Jackman: Yes.

Mr. Callahan: Do you see the deposit insurance provisions being a vehicle for encouraging those companies that come under it to invest in riskier investments simply because they know they have the protection of the deposit insurance?

Mr. Jackman: I think deposit insurance can be abused. You certainly saw in the Seaway situation where around Canada Savings Bonds time they were effectively selling, really, government-guaranteed paper at a rate a couple of points higher than Canada Savings Bonds. And you know, they invested it in all sorts of crazy things.

So, yes, that is a risk. But I think the very existence of Canada deposit insurance means that the powers of the regulator must increase, and you know, that is why I think this bill before you is very, very important. And I do not like the word "deregulation" because that implies less regulation. I think the whole industry is in for more regulation and more control.

But I think politically--and I know some of your witnesses have said that we should have co-insurance, that the depositor should bear part of the risk himself in order to prevent the Seaways and this kind of thing. And I think that in theory I agree with that, but politically there have been a large number of failures of deposit-taking institutions, and in every one the depositor has been bailed out either by this level or the federal level. And so you have set so many precedents now that I do not care what the legislation says or what the government says, if another one happens it is going to be a 100 per cent bailout.

I think that is a political reality. And if you were sitting in the opposition, the first thing you would say, "Why don't you bail them out?" I mean, you just have to accept that we have virtually 100 per cent deposit insurance in this country. That is the political reality,

although I do not think the government people, federal or provincial, would like to admit it.

Mr. Callahan: Well, the real thrust was that because of this pacifier--that is the only thing I can call it, really, because you have got this cover for you--your investments may tend to be far more risky and speculative than they might be in the traditional banking fashion if you did not have deposit insurance available or if there was some sort of a co-insurance arrangement.

That is the impression I get, anyway, that because they know that is there, they perhaps are a little riskier in terms of. . .

Mr. Jackman: Well, that has certainly not been the case in our company. I mean, the rules regarding valuations in the previous Act, you know, were pretty loose. You had to be--the loan was limited to a certain percentage of appraised value, but what was appraised value was, you know, very vague.

I think all that has to be tightened up and standards of valuation have to be put in. But--in theory I agree with you about co-insurance, but politically it does not mean anything because you are going to bail them all out. I know you are.

Mr. Callahan: Thank you.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: Yes. I would like to put a question to the witness this morning concerning the area of real estate. I know that trust companies are in that area quite a bit.

But I understand in the real estate business, being a real estate broker, they also have powers to get into the area of investment purposes where they go in and get some substantial persons, individual persons perhaps, to take some savings and put it into a scheme or some project there for development through a real estate broker, and all of a sudden they are gone by the wayside and the investor loses. What are your feelings on this?

Mr. Jackman: Well, trust companies do have limited powers to make investments in real estate, really for their own account. They are limited, and--I am sorry; those provisions have been changed, I think, in your draft bill, but I am sorry, I just cannot tell you--but we do not do it in National . . .

Mr. Haggerty: No, it is the real estate broker that does it. I guess he has the license to get into this area to take in small investments for the development of real estate projects and that. There really is not a trust company--they seem to have a right, through legislation, to establish--people perhaps may be misinformed out there, that small investors feel that it is a trust company, and it is not.

Mr. Jackman: Oh, I see.

Mr. Haggerty: And that is an area there that I was concerned about.

Mr. Jackman: Yes. I was not aware that that was going on to any extent, and I am concerned too.

Mr. Haggerty: Yes. No, I just wondered what your feeling was that, you know--I mean, is there enough controls on this particular area?

Mr. Jackman: I cannot really comment on the real estate brokers. I just do not know enough about it.

Mr. Haggerty: Well, in my area there have been a number who have been into it and some individuals have been burned on it.

Mr. Chairman: Any other questions?

Mr. Morin-Strom.

Mr. Morin-Strom: I wonder if you could tell us why a major shareholder or interest such as E-L Financial Services would be interested in investing in a trust company.

Mr. Jackman: Well, going back historically, and this goes back to almost 20 years ago, we were in the life insurance business, which was pretty hard slugging. A company the size of Victoria and Grey, which was much smaller then, was growing, taking in I think--I just cannot remember the figures, but it was so easy in those days to attract deposits and loan them out at reasonable rates, compared with trying to sell life insurance and getting an annual premium and investing it at a profit, that it just seemed a more profitable business. And that is why we did it.

It was sort of an alternative to expanding life insurance operations, and I think it was a wise choice.

Mr. Morin-Strom: How have the common shares of trust companies and other financial institutions such as the major banks performed over the last 20 years since you have been involved?

Mr. Jackman: I think they have done very well. I think the trust companies have done very well. The banks have not done particularly well in the last--they have underperformed the trust companies in the last four or five years, mainly because of loan losses in the energy sector and in Latin America. Their loan/loss ratio is more than 10 times what ours are, and of course they have had to issue more shares to replenish their capital. And that dilutes the number of shares outstanding, and it has been depressing on the stock market price.

I cannot give you exact figures, I am sorry, on what

depreciation in the bank stock index or the trust company index is over any specific year, although you could get that information quite readily.

Mr. Morin-Strom: So you are not aware of whether the trust companies, for example, or yours in particular, has outperformed the TSE 300?

Mr. Jackman: I think it has. I think if you go back 15 years, yes, I think it would have. Yes.

Mr. Morin-Strom: How is it that the trust companies have been able to outperform the banks, let's say?

Mr. Jackman: Well, I think primarily it is their lending decisions have been much wiser. I mean, we have not made any loans to Latin America; we do not finance the energy takeovers. Some of them in the banks would say, "Well, that's not because you're so smart; it's because you didn't have the power to do it." Well, either way, we do have the power to make government loans to any country in the world, but we just have not done it.

Mr. Morin-Strom: So you think because--it is actual, percentage-wise, lower loan losses?

Mr. Jackman: Well, as a percentage of total loans, our loan/loss ratio--and I have not got the exact figures with me, but it would be certainly less than a tenth of that of the chartered banks.

Mr. Morin-Strom: How would you compare in terms of margin with the banks, you know, the rate differential between lending rate and borrowing?

Mr. Jackman: Well, the gross margin, if it is--if you are talking about the margin, the overall margin on trust companies would be considerably less because trust companies have more of what we call guaranteed investment certificates, five-year debentures out, which we invest in five-year mortgages, where the spread is lower. On what we would pay on a savings account, demand savings account, that rate is pretty comparable to what the banks pay, and prime rate is the same for both. So the spreads on that kind of stuff would be about the same--which are high, I might add. They are very high.

Mr. Morin-Strom: In the loan loss area, is it because--is the big difference, as you are saying, between the banks and yourselves because of loans to major corporations primarily, and overseas? Is it an overall poor decision on. . .

Mr. Jackman: Well, the banks do not break down their--in a general way, they break down their loss provisions perhaps between countries; I cannot say specifically what companies. But we do not loan--we do not make loans to big corporations, so we do not have big loan losses. We do not loan to Latin American countries.

Between the energy-related loans and the Latin American loans, that--I just do not know what figure it is, but between those two groupings that is a very, very large part of the banks' loan/loss ratio, and we are not in those areas.

Mr. Chairman: You were even driven by different rules. Or you have been in the past, at least.

Mr. Jackman: Well, it is just that there has been nothing to prevent us from making sovereign loans to Latin American countries. We have had a limit on our commercial lending powers, which would have prevented us from loaning to, say, Dome Petroleum--or at least to a smaller extent.

Mr. Morin-Strom: Finally, just in the area of again getting back to capital appreciation from the shareholders' point of view, what has the difference in practices been on dividend payouts between trust companies and banks, and has the dividend--my understanding of banks is it is fairly steady and probably very slowly, gradually increasing. What has the practice been for trust companies?

Mr. Jackman: I cannot answer that with certainty. I think they--I really cannot answer, but I do not think there is an appreciable difference in the dividend policy relative to earnings of banks and trust companies, generally speaking.

I know in our company, we are low. We pay out only about a third of earnings from dividends. But looking at the industry, I think it is--I do not think you can make a distinction between banks and trust companies on that score.

Mr. Chairman: Mr. Callahan and then Mr. Foulds.

Mr. Callahan: I was just going to ask you, is there any mechanism set up in the trust company field to alert a depositor to the factor--other than these little signs that seem to stick on the wall--that your protection is limited to, what is it, \$60,000 under the deposit insurance?

Let us say somebody comes into a trust company with \$120,000. Is there any obligation on the trust company or is there any mechanism through which either that person is told, "Your coverage under deposit insurance is only \$60,000," or is there some way that those funds are placed in different ways to make certain that they are covered for both \$60,000 deposits?

Mr. Jackman: To my knowledge--I really cannot answer your question authoritatively, but to my knowledge there is no obligation, I think, to say that the--I do not think there is any obligation to tell him that the deposit insurance is limited to sixty.

I think, you know, if the trust company is affiliated with another group that also has--another company that also has deposit

insurance, they can book the other sixty with that company. I guess that could happen.

Mr. Callahan: Yes, but my concern is that the \$60,000 coverage is--to begin with, it is a sales feature, in a sense. It is also a--as I indicated before, I have a concern that because of that fallback provision, institutions perhaps invest in commodities that are less conservative than they might have been had they not had that fallback. And I have some concern about people, particularly seniors, who might sell their house and very easily acquire \$120,000 or \$240,000 and just go plop it into a bank, a trust company or whatever, and feel that they are protected because they have heard about this protection.

Mr. Jackman: Well, I think the only way--I mean, as I said, I--maybe reluctantly, but I accept deposit insurance, 100 per cent deposit insurance, as a political reality. To address your concern, if all the trust companies and banks were offering, say, eight per cent and one company said, "Invest with us, we'll pay you 10," and siphoned the deposits from other institutions--which effectively what was the Seaway--that is a red flag to someone. But I do not really think it is practical to put the onus on a depositor to say that a financial institution is bust or wrong or doing something wrong. The onus has to be on the regulator.

And we saw it in these two western banks, where even the auditors gave glowing reports saying that everything was fine. Well, it turned out they were bust.

The depositor does not read the annual report. The depositor is attracted by flashy advertising and giveaways and this kind of thing. He does not look--you cannot expect the depositor to understand the financial statements. That is the regulator's job, and that is why I think in the case where, say, Seaway is offering 10 per cent and everyone else is offering 7, then the regulator has to step in earlier and maybe even the regulations have to be strengthened to give them the power to prevent some of these fringe companies paying excessive rates, interest rates.

Mr. Callahan: Would you see any difficulty if in the legislation there was in fact provision for a requirement on the part of a lending institution to do one of two things: either alert a depositor that anything over the \$60,000 was not covered, or in the alternative to place it in such a way that they would in fact be covered to the extent of their investment?

Mr. Jackman: I would have no objection to that, but I just--I think I know where you are coming from. You want to alert the depositor to be able to make the choice.

Mr. Callahan: That is right.

Mr. Jackman: To put the discipline on the system on the depositor. And I just warn you that the depositor cannot do it. It has

to be the government. It has to be the government who--if the company is not being run properly, it has to be the government's responsibility to discipline them.

Mr. Callahan: Thank you.

Miss Stephenson: But surely, Mr. Chairman, if there is a requirement that there be better information made available to depositors through some mechanism. I will grant you that I think 90 per cent of the people do not read any more; they watch 30-minute clips on television and believe that that is gospel--30-second, I mean--and somehow there has to be some information that does get at them.

Because it is all very well to insure the depositors--I would remind you it is only three years, four years ago that the CDIC upper limit was \$20,000. It was as a result of Seaway and Greymac that it went to \$60,000. But I do not think you can insure the depositors for 100 per cent of what they are going to deposit much beyond that, unless inflation becomes so monumental that we all have to carry our money around in suitcases in order to function. I mean, where are the limits? Where are the limits within the financial institutions area?

If you are going to put limits on the role of the depositor as a knowledgeable consumer--and that is really what you are saying--and you are going to load it all onto government, then the chances are things are going to slip through and problems are going to arise. It seems to me there has to be some kind--it is not that it is going to be failsafe--there has to be some kind of red-flag system which functions within the financial institution community, within the government, and within the depositor community as well. And you cannot put it all on one group.

I do not trust government to do that sort of thing, I really do not, and I do not think you should. But I am not sure I trust you to do it either. And I sure as hell do not trust the depositors at the present time, because most of them do not know what they are doing.

Mr. Chairman: Who should, then?

Mr. Morin-Strom: The fact is . . .

Miss Stephenson: It has got to be some kind of combined effort.

Mr. Morin-Strom: The fact is a \$60,000 limit is not a limit anyway, because the practice has been to insure deposits up to any . . .

Miss Stephenson: No, no. In banks, perhaps, but the CDIC policy has not been that.

Mr. Jackman: Well, CDIC, the legal limit is \$60,000.

Miss Stephenson: That is right, yes.

Mr. Jackman: But depositors in Crown Trust and the CCB, all of the institutions that have failed in the last few years, effectively, one way or another, they have had 100 per cent insurance. That is the reality.

Mr. Morin-Strom: So the regulations were there, I assume to say that small depositors do not have the expertise to analyze whether the institution they are putting their money in is safe or is not safe, and they have the right to expect that it is safe. But a large investor who is putting \$60,000-plus in should be able to recognize he is getting a rate out of line and there might be something questionable about it, and there may be a real risk in getting that extra rate.

But in fact, even the large depositors happened to be fully protected to this point.

Miss Stephenson: But should they be? This is the point, that can you fully protect yourself against anything while you are living? You can when you are dead, there is no doubt about that, because nothing is going to happen to you then except maybe being exhumed, which is not going to bother you particularly!

What I am simply asking is, is there not some risk which you have to be prepared to take? And what is the degree of risk which should be assumed by small depositors and large depositors, by financial institutions and by governments?

Mr. Morin-Strom: I do not think small depositors. . .

Miss Stephenson: Should have risk?

Mr. Morin-Strom: . . .under \$60,000 or under \$20,000 should have a risk on savings accounts. They have risk if they invest in bonds or if they invest in stocks. . .

Miss Stephenson: Or GIC's, or. . .

Mr. Morin-Strom: . . .but not on savings accounts in savings institutions.

The large ones who are trying to get an extra half a percentage point on a \$5-million GIC, I think, should recognize that there is a risk. So I think there is a point to having the \$60,000 limit.

Miss Stephenson: Okay, but I would remind you that most of the people who got into real difficulties or who were in dire straits as a result of the collapses were people with small deposits who saw that they were going to get--or thought that they were going to get an extra half per cent or an extra per cent. And it is not just the big depositors that are looking with somewhat greedy eyes at this; the small depositors do exactly the same thing, and that is human nature.

Mr. Chairman: I wonder if our guest has any comment on this debate? Otherwise, I will go to Mr. Foulds. We can debate amongst ourselves at any time.

Mr. Foulds.

Mr. Foulds: I have a couple of specific questions about National Victoria and Grey. I notice in the list of advisory boards that they are all in southern Ontario. Does Victoria and Grey not operate in northern Ontario?

Mr. Jackman: Well, we have in North Bay. Is it not mentioned there?

Mr. Foulds: Yes. I consider that southern Ontario, but maybe that is a prejudice of mine.

Mr. Jackman: No, we do not go further north than North Bay. Maybe we should.

Mr. Foulds: Well, is that just because of the historical development?

Mr. Jackman: Well, it is because really--yes, that is all.

Mr. Foulds: And you have not given any thought to expanding operations?

Mr. Jackman: Yes, we have. You know, we have given a lot of thought to a lot of places. Maybe we should do something, but it has not happened as yet.

Mr. Chairman: Mr. Foulds is a great advocate of corporate expansion generally!

Mr. Foulds: Especially in the areas of vacuum in northern Ontario.

You also indicate in your remarks that you do not make loans to your directors or to your major shareholders.

Mr. Jackman: That is right.

Mr. Foulds: Is that a matter of policy of your company or is that a matter of regulations?

Mr. Jackman: No, that is a matter of law, Ontario law. The banks can do it, but trust companies cannot.

The self-dealing rules that are in this bill would extend that to--I think if the sale of real estate from an owner to a trust company is not specifically prohibited now, that is one of the things that I think is going to be corrected in this draft bill.

There is also the question of making a loan, not to a director, but to facilitate a sale from a director to someone else. And the most glaring example of that was when Crown Trust did not make a loan to Rosenberg but it made a loan to Player, which gave him the money to buy some real estate from--the Cadillac apartments from Rosenberg. Now, that is not a loan to a director, but you can see the circular--and that sort of thing is being corrected, as I understand it, in this draft bill.

So, you know, it is not entirely clear that Rosenberg broke the law; you know, he had pretty good legal advice.

So those things are going to be corrected in this new legislation.

Mr. Foulds: I have one other question to you. You indicated what I consider to be a rather idealistic position, which I find really quite refreshing, that directors should not represent any special group and that your company has a majority of outside directors.

Mr. Jackman: Well, I said all but one. Only one of 42. A couple of those are management.

Mr. Foulds: Now, is it in fact in real life possible to go to a meeting and represent everybody? Surely in the arguments that take place and the debates that take place, by necessity one is forced into supporting some special interest within the corporation, which eventually...

Mr. Jackman: Well, I think you could come into a difference of opinion as to--some people might say that in certain periods in recent history Chatham is a terrible place and nobody should make any loans there, the whole town is going to close; you know, this kind of stuff. And there might be a debate on that.

But the perspective that every director comes from is, what is in the best interest of the company. Now, something may think that different things are in the best interest of the company, but every shareholder gets the same dividend. You know, if the stock market goes up, every shareholder gets the same appreciation; or if it goes down.

There is a genuine community of interest between all the shareholders--as long as you do not have self-dealing, where one shareholder can get a hunk of money out, you know, maybe at a favourable rate or something like that. But there may be differences of opinion within the board as to the best way to achieve the good overall.

Mr. Foulds: And there would be legitimate differences about what the overall good of the company is?

Mr. Jackman: Oh, sure. I mean, I think--the analogy, take the Cabinet and the government. There are all kinds of disputes as to

what we have to do to get the party re-elected, but the common objective is there. I do not think it is that different.

Mr. Chairman: Mr. Callahan.

Mr. Callahan: I notice that your holdings--you are also involved with insurance companies.

Mr. Jackman: Yes.

Mr. Callahan: I would like to ask you a question, and it is still on the deposit insurance side.

Do you see an unfairness between those who have the benefit of the deposit insurance protection and, say, the life insurance companies who are required to deposit or have on deposit their own capital to be able to carry on business, in order to protect the policy-holders? Is there an unfairness about that in that one has to tie up capital and the other one does not have to tie up capital?

Mr. Jackman: For historic reasons, I think life insurance companies have to put on deposits with provincial superintendents. Those are really good-faith deposits; they bear really no relationship to the liabilities.

If you are a foreign company in Canada operating as a branch, you have to put on deposit enough assets to meet your actuarially calculated liabilities, but that is because you are a foreign company. I do not think the--certainly in the insurance industry, you do not put liquid assets equal to your liabilities with the government. I do not think that is right.

Mr. Callahan: You put a certain proportion, though, don't you?

Mr. Jackman: Yes, but it is nothing relative to your liabilities.

Mr. Callahan: Have we ever had a life--I think particularly in a life company--go bust? Because that is a critical area where a widow might really be out in the cold.

Mr. Jackman: I think the life insurance industry will tell you there has never been a loss on a guaranteed benefit in a life policy for 100 years, or something like that. I might be wrong, but they have had a very good record.

Their reserving requirements are much stronger than for deposit-taking institutions.

Mr. Chairman: Mr. Bond and I have been looking at your chart on page 2 that you made reference to, and comparing it with a table that we received from the Trust Companies' Association last week. And their figures are a little bit different from yours, and we were wondering if it is not the case that when you talk about

Canadian-owned financial institutions, you are excluding estates, trusts and agency assets.

Mr. Jackman: Yes, I am. But you know, they are not assets, control. I think National Trust has a \$2 billion pension fund from one of the big industrial companies, but we do not control it. All we do is--we do not even manage it. The bonds are in our vault and we clip the coupons for them. They have outside managers. So those are excluded.

Mr. Chairman: That would involve a fair amount in assets, though, would it not?

Mr. Jackman: Well, in our case it is--the fiduciary assets are more than National Victoria and Grey's own assets, which are \$9 billion.

Mr. Chairman: Yes.

Mr. Bond, do you want to ask directly?

Mr. Bond: Yes.

The most recent financial statement by Canada Trust Co. lists its amalgamated assets as being over \$49 billion.

Mr. Jackman: That would include their estates.

Mr. Bond: That would include their estates, trusts and agency.

Mr. Jackman: Let us say in this table, Canada Trust, which is a very large company, is included--I have included it in the category "Foreign Controlled." It is certainly not--it is not a closely-held Canadian because it is--ultimately, Imasco is 48 per cent owned by an English company, 44 per cent.

Mr. Chairman: And in talking about the Canadian-owned and widely-held institutions, i.e., the banks, that includes foreign assets?

Mr. Jackman: Yes. Well, it includes the assets--I have taken it from the Financial Post: the Royal Bank is \$96 billion, the Bank of Montreal, \$82 billion. Yes, that does include their foreign assets.

Mr. Chairman: Thank you.

Mr. Jackman: But in the trust companies, it includes their foreign assets too, to the extent they have them.

Mr. Chairman: Thank you. Mr. Callahan.

Mr. Callahan: I just have a supplementary on that one.

I gather Imasco took over Canada Trust. Is that right?

Mr. Jackman: Imasco took over Genstar, which owned Canada Trust, yes.

Mr. Callahan: And who was--was Genstar a Canadian company?

Mr. Jackman: Well, it was at one point, I think, controlled by a Belgian group, but it got Canadian status for FIRA purposes.

Mr. Callahan: This may be a little facetious, but it would seem to me that if a foreign interest takes over an interest that has a connotation of being Canadian-owned, i.e., Canada Trust, that perhaps they should be required to look at the question of changing the name, because what I think it does is it induces--you know, I never realized Canada Trust was not Canada Trust. I think there is a lot in a name. In fact at one time, under the Companies Act, you could not get something with the words "Dominion" or "Canada" and so on, I suppose for that very reason, that it was some indication of a central situation, that it was in fact a Canadian-owned body.

Mr. Jackman: Well, I think if Canada Trust were here, they would deny that they were foreign-controlled. I think they would.

The only point, it is obvious--Canada Trust is obviously controlled by Imasco, and Imasco is I think 41 per cent controlled by Bat Industries, which is a big British tobacco company. And they say--well, you can draw your own conclusions. A lot of this is subjective opinion.

Mr. Chairman: Mr. McFadden.

Mr. McFadden: Yes. Two points. One was on the point raised by Mr. Bond. As I understand the figures--because we had some confusion the other day over all these asset figures.

As I understand it, if you add in assets under "Administration," you are really comparing apples and oranges because those are not assets of the company; they are other people's assets somebody is managing for them. And the banks do not include assets like that because they are not in the trust business.

So it seems to me that the Canada Trust figure we got the other day was inflated. I do not know why they want to inflate their figures, but it would seem to me that that is not a real figure because a lot of that money is somebody else's money, but they are throwing it in and saying it is their assets.

In effect, if they are comparing it with the banks . . .

Mr. Callahan: Well, maybe we should look into that.

Mr. McFadden: I do not think legally they are confused. It is just that the people doing these figures have tried to confuse figures.

I do not know, maybe that is something we are going to have to carefully look at as these figures keep coming in because that was the thing that struck me, is they seem to have been very loose in terms of what they are calling their assets.

I do not think it is proper for a financial institution or trust company to take estate assets or pension fund assets and say that is their assets.

Mr. Jackman: I do not know this reference that you are talking about.

Mr. Bond: It is assets under administration, so they can. . .

Mr. Jackman: Which is unaudited. It is not part of the auditor's statement. The auditors will refuse to audit it.

Mr. McFadden: But they are lumping it in to gross up their size.

Mr. Bond: The reason I raised the issue is because the banks want it added in because they assert that ETA's are under the trust companies' administration and that trust companies have effective control over these investments, investments of these ETA's.

Mr. McFadden: I would say I question the propriety of it. I question the propriety of it because the--because trust companies look after other people's money, it does not become their assets, and to say that--that implies that they can take estate assets and basically deal with them in the same way as they deal with their own assets, their own equity and their retained earnings. And that is totally wrong.

So I think it is misleading to include those figures in. And I know the banks want to do it because they--that implies that some of the trust companies are--I suppose they are trying to say that they are really major competitors and should be considered and dealt with the way banks are. I would expect that is what they are trying to gear in at.

But it seems to me, as legislators, we should not be considering estate assets and pension assets as assets of a trust company. They are not. They are under "Administration" and they should be separated. That is a dangerous precedent, to get started looking at it like that.

Mr. Jackman: Let us say, Mr. Chairman, that our assets, E-L Financial's own assets, are held by one of the major chartered banks. So if the banks say that "we should include all estate assets in our total," then our assets have to be added on to that particular bank which is our custodian, by the bankers' logic.

Mr. Chairman: Mr. Callahan, and then Dr. Morin-Strom.

Mr. Callahan: What in fact happens if the trust company goes bust and they have in fact lumped them in there? I would think, as a matter of law, they cannot be touched. But what if their obligations on the left side of the column exceed the right side and they start to use those?

Mr. McFadden: That is not supposed to be in the financial statement. Because they are not supposed to appear as an asset. There should not be an entry anywhere on the financial statements of other people's money. If they have been lumped in . . .

Mr. Jackman: They are not. They are only--they are not on the balance sheet, but usually they are off on a line at the bottom saying "Estates, Trusts and Agencies Under Administration," or whatever it is. The auditors do not audit that figure. And I think it is a very good point. Maybe the trust industry should not use that figure.

They probably use it to--you know, we are obviously managing a lot so maybe we will get some more business that way.

Mr. Chairman: Maybe they can learn something from the Law Society.

Dr. Morin-Strom.

Mr. Callahan: Or vice versa!

Mr. Morin-Strom: Good shot, Mr. Chairman.

Mr. McFadden: It seems to me, in regard to . . .

Miss Stephenson: If somebody is not permitted to discharge . . .

Mr. Chairman: Dr. Morin-Strom has the floor. Let us not debate this; let us have some questions.

Mr. Morin-Strom: I was just going to say, in terms of Mr. McFadden's argument on what should be included in the Trust Company Act, that exactly the same argument I think can be made in terms of deposits in a bank. I think you can argue that those are not the assets of the bank, but those are the assets of the depositors, so...

Mr. Callahan: It is not a fiduciary relationship, it is a debtor/credit relationship, which allows the bank or the trust company to invest those funds, whereas in the estate assets it is a fiduciary arrangement; there is absolutely no right to use those in any fashion other than the administration of the estate.

Mr. Morin-Strom: I do not even know what that word "fiduciary" means, so I do not want to get into that.

Mr. Foulds: I do not know that many people do, actually.

Miss Stephenson: It is in the glossary, well explained.

Mr. Bond: It is a trust relationship.

Mr. Callahan: For instance, if you go to the bank and you ask them--you have got \$100,000 on deposit with them, if it was a fiduciary relationship they would have to turn over that \$100,000 to you posthaste. If it is a debtor/creditor relationship, which is what exists in a deposit situation, they have got a certain amount of time, I think, under the legislation, that does not require them to turn it over immediately. They can take their own sweet time about it.

Mr. Morin-Strom: It sounds like a technical distinction that depositors would not recognize as legitimate.

Mr. Chairman: Any other questions of the witness?

Mr. McFadden: I have one question vis-à-vis what is actually the subject of our Committee's study in particular, and that is concentration of ownership and the effect it is having.

We have received, over the last two weeks or two and a half weeks, various submissions on this. It has been put to us that with the internationalization of financial services there has been a need for more concentration of ownership, a need for larger institutions so they can compete internationally. It has been suggested as well, of course, in the securities industry that in fact there is even a need for foreign capital, so that the industry in fact will have the capital needed to compete in the world capital markets.

With regard to the financial services industry, forgetting really the securities industry, which I think is to some extent separate from what we are talking about this morning, first of all what is your attitude right now on the concentration of ownership? Is it your view that--do you feel there is any worry as far as those of us in the legislature and regulators are concerned, about concentration of ownership among financial institutions? What is your attitude on that?

And secondly, insofar as the trend, where do you see the trend line going from here in terms of ownership patterns?

Mr. Jackman: Well, as I say, if you are talking about financial institutions, I do not think the--because this table that I gave at page 2 of my report, which is quite a bit different than the trust companies one--this is broken down by industry; mine is broken down by ownership patterns. And the institutions which are owned--Canadian-owned institutions where there is an identifiable controlling shareholder are 7.8 per cent of the system, which is smaller than any one of the large five banks. So I do not think--if you are worried about concentration, you have got to be worrying about the size of the big banks relative to the rest.

Now, if you are talking about the question of concentration

in the sense, should insurance companies own trust companies or trust companies own insurance companies, I do not see any problem with that except that I think they have to be regulated separately and I think they have to be--the question of dealing between each other has to be looked at, you know, very carefully. And as I said, I am in favour of a virtual complete ban on self-dealing, with power to the regulator or some government authority to grant exemptions when warranted, based on a higher approval thing.

Certainly, the life insurance industry right now in Canada is overcapitalized, because they have not been able to grow, they are building up these huge surpluses. The deposit-taking institutions, if anything, are undercapitalized. They are always raising capital. And it would seem logical to take some of that excess capital in the life insurance industry and put it behind the depositor. But you cannot count it twice. That capital cannot be used to protect policy-holders and then protect depositors.

So you cannot, you know, keep pyramiding them up and counting the same capital three or four times. You have to watch that.

Mr. McFadden: You mentioned something that we had not heard of today, or at least heard of since the start of our hearings, and that is the overcapitalization of life insurance companies. How much money are we talking about? Are these very sizeable sums?

Mr. Jackman: Well, I think in particularly the big mutual companies, yes. I think--I do not want to say billions because I just do not know, but it is a lot of money. And of course, they are--I do not know whether you are having the life insurance companies in front of you, but they will complain that their charters are far too restrictive and that they should be able to buy trust companies or buy something else.

Mr. McFadden: So their problem is that their investment part is so limited, they just do not seem to find enough place to put their money.

Mr. Jackman: That is what they will say.

Mr. Foulds: And whether that is sound or not remains to be seen.

Mr. Jackman: Well, I think if the government or the rules say you have to have X amount of surplus relative to your liabilities, if you have an excess amount that amount is available to pay out dividends to the shareholders or policy-holders, and what the life companies are saying, "We would rather invest it in some area of the financial services industry than pay it out." I do not see anything wrong with it.

Mr. Foulds: It strikes me as an ironic crisis, to be overcapitalized, somehow.

Mr. Jackman: Well, that is one of the ironies of our system right now.

Mr. Chairman: Just getting back to the question of including trust moneys in assets, I have here the quarterly statement for Canada Trust Co. ending June 30th, which states on the front, "Assets under administration measured at book value increased to \$51 billion from \$49.2 billion at year end, and \$46.3 billion at June 30th, 1985."

When one looks at the small print on the inside, one sees that their assets as at June 30th, 1986 total \$23 billion, and presumably the rest of that money is estates money that they are administering, and it makes the big print on the front of the report to the shareholders. We might make that an exhibit.

Miss Stephenson: Isn't there something about honesty in advertising?

Mr. Chairman: Yes.

Mr. Foulds: Could I just follow up on something that just struck me?

Mr. Chairman: Yes.

Mr. Foulds: Life insurance companies, and I hope we do get one of them in front of us to elaborate on this point, say that because they are overcapitalized--and I may be bastardizing your argument here--they have to pay out too much . . .

Mr. Callahan: Is that parliamentary language?

Mr. Foulds: Well, I may be exaggerating your point here, or misunderstanding it. They would claim that they have to pay out too much in dividends to their depositors and shareholders?

Mr. Jackman: No. They have an excess surplus, and what are they going to do with it? Well, they can--that is one option, they can pay it out. And most of the ones with excess surplus, I might add, are mutual companies, where they do not have shareholders.

So it would be, effectively they would have to increase their dividends to policy-holders . . .

Mr. Foulds: Policy-holders, yes, okay.

Mr. Jackman: . . . or they can keep it back and go and buy a trust company. Now, I mean, that is a big debate in the industry, whether they should not be compelled to pay it out to the policy-holders.

Mr. Foulds: Yes, okay.

Mr. Jackman: Maybe the policy-holders would rather have that than have them buy a trust company. I do not really believe in mutual companies, but that is just my personal . . .

Mr. Foulds: You do not really believe what?

Mr. Jackman: Believe in mutual companies, because there is this conflict. But there are two sides to that argument.

Mr. Foulds: Yes, okay.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: Thank you, Mr. Chairman.

Mr. Jackman, you just used the word "conflict." What is your true picture of conflict? How should it reflect in a business, particularly in the financial institutions? Your comments about the banks and the conflict that they have, and that the directors may have a special conflict, and the money that they have access to through the bank that is put into--well, let us say in takeovers.

Has your industry ever been considered as a takeover by one of the larger giants?

Mr. Jackman: Has our company been . . .

Mr. Haggerty: Yes, been considered as a takeover in the past?

Mr. Jackman: Yes, I think that bigger companies have considered taking us over, yes. But they have not.

Mr. Haggerty: What is your feeling on that, though?

Miss Stephenson: Have they announced that they have?

Mr. Jackman: No, no. What is my feeling, generally, about takeovers?

Mr. Haggerty: Yes, in the takeovers and that, you know, and the conflict of interest that the larger banking institution has, that they can sit back in their corporate boardrooms and decide who is on the next--who is on the hit list, you might say.

Mr. Jackman: Well, of course, from the bank's perspective, they just want the business. I mean, they get fees, usually substantial fees, and interest on the loans.

My personal view, and this has really got nothing to do with financial institutions, but it is that this whole takeover movement is way overdone and it has been fuelled by the fact that you can deduct your interest that you incur from making a takeover from your earnings, and that makes the takeover easier. The accounting

profession, if you pay a very big price to acquire a company and you are really paying maybe a billion dollars more than its value on its own balance sheet, you can write that figure off over 40 years, you know, whereas really it is a billion dollars out the door. But you do not show that as a loss.

So the accounting system and tax system, it is simply the availability of credit that is encouraging takeovers right now. That has not always been the case in the past and it will not always be the case in the future. My own personal view is that I think the deductibility of interest perhaps should not be allowed in certain cases of these takeovers.

As far as the banks are concerned, you know, I guess each bank will say, "Well, if I don't make the loan, my competitor will," so they make it. But there is, in my opinion, far too much debt in corporate Canada relative to earnings and net worth. Personally, I think it should be cooled out, but that is perhaps getting beyond the subject of this group.

Mr. Foulds: That actually speaks to the central question, though, of corporate concentration and the business of what is --the so-called paper chase. It does, indeed.

Mr. Chairman: Mr. Ashe.

Mr. Ashe: Just a supplementary on that, Mr. Jackman.

When you mentioned before about you are not too sure that it is appropriate that interest should be deductible in certain cases, are you saying by that the "certain cases" would normally be when they are paying a substantial premium over the book value, let us say, or relative value of the company? That that billion, to use your numbers, maybe that should not be used as being an eligible interest deduction?

Mr. Jackman: Well, yes. I think for the goodwill part of that equation--you know, if I go out and build--if you go out and build a steel mill for \$100 million and borrow the money, you can deduct the interest. But if you acquire the steel mill through a takeover bid for \$200 million, you can deduct your interest on \$200 million. But there is no new steel mill being created; it is just the same one, and yet the interest deductibility is double and therefore the loss to the revenue is double. And I am just not sure that makes sense.

Mr. Ashe: Thank you.

Mr. Chairman: I am not either. Any other questions?

It has been a valuable experience to all of us, sir, and we appreciate very much the time and effort, and your brief. It has been, as I indicated earlier, very clear and concise, well done.

I think there are some members of the public that might be

interested, if you have some extra copies of your brief with you.

Thank you very much.

Mr. Carrozza, perhaps you could appraise us of some changes.

The Clerk: The changes have been mainly to ask for a delay in their appearance. If you look on Wednesday, which is tomorrow, two groups have requested that they be delayed until next week. The first one is Crownx Incorporated, which would be on October the 8th, in the afternoon, and the other one is Consumers' Association of Canada, Ontario Branch, which would be on Thursday, October the 9th. These are the two changes so far.

And tomorrow, we begin at 2:00 o'clock in the afternoon.

Mr. Chairman: All right. So we begin at 2:00 tomorrow. No changes on Thursday?

The Clerk: No, there are no changes on Thursday.

Mr. Chairman: Okay. Can you then, maybe by this afternoon or whenever it is convenient, give us an update on next week's schedule then, of the total week? Because we have quite a number, I think, of changes.

The Clerk: Yes. I can give it to you now. The only possible change could be on Tuesday, October the 7th, in the morning, at 10:00 o'clock. They are tentatively scheduled, but we have not finalized. October the 7th, that is next week.

Miss Stephenson: The credit unions.

The Clerk: The credit union people.

Mr. McFadden: I am looking at a September 26th revision. That is up to date. Is that what you are telling us?

The Clerk: That is correct.

Miss Stephenson: At the moment it is not finalized?

The Clerk: It is not finalized.

Miss Stephenson: All right.

The Clerk: And the Ministry of Industry and Trade is coming for the afternoon, and the other ones have been confirmed on the 8th and have been confirmed on the 9th.

Mr. Ashe: So at the moment, then, there is two for the 8th, with the moving of Crownx, and in effect just the Consumers' Association for the 9th?

The Clerk: That is correct.

Mr. Ashe: So it is still the Tuesday, Wednesday . . .

The Clerk: If I can bring you up to date on the other information, I contacted three insurance companies: London Life, Sun Life Insurance and Economic. The Sun Life informed me they are willing to be here, but they told me that they would be repeating what Mr. Eaton has already stated. So that maybe you can make a decision on that. Because they are owned by the same conglomerate.

I also contacted Mr. Tom Curren from Pitfield, Mackay, and unfortunately, he is in the industrial concentration, so he can come later. And I have sent a letter to the Dominion Securities. They requested to be notified by letter. I have not received any information on that.

I regret to inform that Mr. Lawson Hunter cannot be here to appear before us. That is all the rest of the people I have.

Mr. Chairman: So Sun Life is the only insurance company that said they are prepared to come. Is that correct?

The Clerk: That is correct, but they will be repeating what the other two, Royal Trust and Mr. Eaton . . .

Miss Stephenson: Is there an independently-owned insurance company that is not a mutual? Empire? All I want to know is whether there is an insurance company that is totally independent of other financial institutions and totally independent of the kind of corporate concentration, not necessarily financial concentration.

I simply want some information. Can anybody tell me? There is one?

Mr. Chairman: Perhaps we can find that out and we can continue this discussion this afternoon.

Any comment on the Sun Life offer?

Mr. Ashe: It is the same thing, so what is the point?

Mr. Chairman: Well, Mr. Eaton was not concentrating on life insurance.

Mr. Foulds: That is right, he did not specifically delve into life insurance and its ramifications.

Miss Stephenson: It is what they are saying, they are going to have a replay of the Bronfman philosophy? Is that what it is all about?

The Clerk: That is what they said.

Miss Stephenson: Are we going to learn anything?

Mr. Foulds: Why do we not schedule them in on a day when we have someone else scheduled as well, and find out?

Mr. McFadden: Mr. Chairman, it is just that sometimes when you strike a chord, you do get somebody talking and saying more than they planned to, and that is sometimes useful.

Miss Stephenson: And it may be in conflict with what somebody else said.

Mr. McFadden: Yes.

Mr. Chairman: All right. So the consensus then is that we do invite Sun Life to come, and that we find out about Dr. Stephenson's question.

And the other area is investment.

The Clerk: Investment dealers. Do you wish me to go further? At this time, I have sent a letter to Dominion Securities. Is there something else you wish me to pursue?

Miss Stephenson: They are certainly not vigorously anxious to come before us at this point.

Mr. McFadden: There was another group that--I do not know--did we invite the Association of Financial Corporations? That is not the trust companies, it is the Beneficial Finance, AVCO, Household Finance, I think GMAC Credit. They do it in separate bodies. It is not a large organization, but it has been around for quite some time. I do not recall us raising it. I know I did not.

And one thing struck me, was they are provincially-regulated. I am just trying to remember the name--the Association of Canadian Financial Corporations.

Miss Stephenson: Ontario division?

Mr. McFadden: They are head officed in Toronto.

Mr. Chairman: That is a good idea. Obviously, they are interested in our proceedings.

All right. Any other discussion?

We will adjourn until 2:00 o'clock.

The committee recessed at 11:35 a.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
CORPORATE CONCENTRATION

TUESDAY, SEPTEMBER 30, 1986

Afternoon Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)
Ashe, G. L. (Durham West PC)
Barlow, W. W. (Cambridge PC)
Ferraro, R. E. (Wellington South L)
Foulds, J. F. (Port Arthur NDP)
Haggerty, R. (Erie L)
Henderson, D. J. (Humber L)
Mackenzie, R. W. (Hamilton East NDP)
McFadden, D. J. (Eglinton PC)
Stephenson, B. M. (York Mills PC)
Ward, C. C. (Wentworth North L)

Substitution:

Poirier, J. (L) for Mr. Ferraro
Callahan, R. (Brampton L) for Mr. Ward
Hennessy, M. M. (PC) for Mr. Barlow
Morin-Strom, K. (Sault Ste. Marie NDP) for Mr. Mackenzie

Clerk: Mellor, L.
Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witness:

From the Cadillac Fairview Corporation Ltd.:
Ghert, Bernard, President and Chief Executive Officer

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday, September 30, 1986

The committee resumed at 2:05 p.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: This afternoon we have Mr. Bernard Ghert, President and Chief Executive Officer of Cadillac Fairview Corporation Limited, with us, and we are very appreciative, sir, that you have provided us well ahead of time with a brief on the green paper, the federal green paper, plus your statement to the federal committee and the proceedings of the federal committee a year ago, that gave us a bit of background as to your views and those of your Corporation. And if you would care to perhaps comment on those briefly, we would be appreciative of it.

Mr. Ghert: Mr. Chairman, ladies and gentlemen, I do not have a formal presentation, but I think I will make a few comments which I hope will enable you to better evaluate the contents of my brief and my appearance at the federal level as well as the contents of the speech, and also to evaluate the answers to the questions you might want to ask.

I have not dealt with the subject of industrial concentration. As that is typically known, it is a concentration in individual markets or individual industries. I have mentioned it briefly in a note in the brief on the green paper. Basically, Canada has to have big companies in individual industries in order to--relative to its size and the size of its markets, if we are going to compete internationally.

It is also a subject which has been well explored by economists, and there is a body of knowledge which enables people to evaluate the impact of that kind of concentration. And the federal government recently passed Bill 91, which is, I think, a sincere attempt to deal with that issue, and I think time will tell as to how successful it will be. Probably quite successful, I think, but we will have to see.

Another form of size is conglomerate concentration, and a particular kind is one where there are no financial interests involved, no financial institutions. Conglomerate concentration is simply size by putting together a large number of companies or businesses in diverse industries. Lately, there has been a fair amount of statistical work done on the issue. There is not a body of knowledge or analytical background which would permit us to determine the positives and negatives of that kind of concentration. Intuitively, I have some concerns but I cannot come to any conclusion because there is no way to really analyze it.

The other kind of size is one that I call cross-ownership, where you have large conglomerate concentration involving both industrial and non--or financial institutions. I have been able to come to some conclusions in that area, simply because of the importance of financial institutions in the functioning of any economy, and that is the issue on which I largely concentrate.

Another area which I have also touched on briefly is the influence of major shareholders. A major shareholder in a corporation may or may not have significant influence. It is a matter of degree, and it is largely dependent upon the circumstances, the character, personalities, history, a whole ream of factors as to whether or not a major shareholder might or might not have any significant influence on a company. As to whether it is a good or bad influence, I think depends again on the individuals and the purposes involved. I think we have seen examples of it where I think the influence has been positive. In the case of, I would say, Royal Trust, it has been positive. I would think that in the case of Crown Trust, the influence was somewhat negative.

The other area I would just like to touch on briefly is the importance. Much of the attention in the media has been on the question of self-dealing, and I do not mean to decrease the importance of that issue; it is an important issue. But I think the more important issues are the viability of individual institutions and, as important as that may be, more important is the stability and confidence in the financial system, because without that confidence and without the stability, then we in the Canadian economy will not perform to, or close to, our potential.

And even more important but even more nebulous than that is that these kinds of concentrations of power, particularly where you have a cross-ownership, and because of the importance of the financial system and the speed with which financial assets can be moved around and the difficulty in tracing them, I think that kind of power can ultimately have an impact on our political and economic freedom, because I think once it grows to a certain extent then if there happens to be an accident which causes a great concern in the company, it would cause a reaction which we really cannot predict at this time.

Thank you.

Mr. Chairman: Thank you. Any questions? Dr. Stephenson.

Miss Stephenson: Could I ask Mr. Ghert whether you are suggesting that self-dealing, which has certainly been the focus of a great deal of attention in this committee and in the media, is a secondary kind of concern; that in fact it may be necessary to have self-dealing, or permit self-dealing, in order to maintain both the stability of the institution or the viability of the institution, and the confidence in the system?

Mr. Gherl: No, I am not saying that. I am saying. . .

Miss Stephenson: But you are saying that it is not really very important.

Mr. Gherl: Self-dealing can lead to some of the other problems, or the perceptions of self-dealing. There does not necessarily have to be self-dealing, but the perception that self-dealing might be going on or that there may be what I call negative self-dealing, in the sense that there may be instructions or perceptions on the part of management of a financial institution not to deal with the competitors of the controlling interest of a financial institution.

Self-dealing is an important issue but I think because it is easier to identify, the press has tended to concentrate on that without necessarily looking beyond and seeing what the implications might be. So it is the viability of individual institutions and--

Miss Stephenson: Yes. But surely the implications of self-dealing might in fact be a negative impact on the viability of an institution. . .

Mr. Gherl: Yes, I agree.

Miss Stephenson: . . .and certainly a very negative shattering of the confidence of the public in terms of the financial institutions as well.

Mr. Gherl: Yes, in the case of--under the green paper, there is a proposed financial holding company structure. I think in limited conditions and in limited kinds of transactions, self-dealing within the financial holding company structure itself and not beyond that--in other words, you may have a general insurance company, a life insurance company and a trust company within the financial holding company structure and they may have joint marketing programs, joint advertising programs and things like that. I can see some advantages. They may have joint computer services. I think there are a lot of synergies and economies in that.

Miss Stephenson: Yes. The synergies I can accept and understand as reasonable directions in joint affairs, but if indeed there is an advantage given in terms of funding or financing. . . .

Mr. Gherl: I did not deal with funding or financing. . .

Miss Stephenson: Okay, but that is. . .

Mr. Gherl: I am dealing with the use of, basically, administrative facilities, such as computer systems and things like that.

Miss Stephenson: Yes, well, I guess that has not fallen into the kind of definition of self-dealing that we have been considering.

Mr. Ghert: I think it is dealt with in concept in the green paper.

Miss Stephenson: In the green paper, as an excessively close relationship rather than self-dealing, but without the kind of concept of the less-than-desirable function of providing for support in a financial way for those other corporations with which one may have an arrangement or a relationship. Okay. That is what I wanted to know.

Mr. Chairman: Mr. Callahan.

Mr. Callahan: I have just received your document, so I have had a quick look through it. It appears as though your major concern is particularly in the field which you are in, the question of financing, and the impacts, I suppose, that can happen either in an apparent or an actual self-dealing situation. I think one of the ones I read in the newspaper article about you was the question of where a financial institution may also have an industrial component that may be a competitor of yours--or, perhaps in this case, would be a real estate component--be a competitor of yours and may deny you financing because of the competition.

Having said that, though, how do you relate that to the arguments that are made that concentration or largeness is necessary to compete effectively in the world markets?

Mr. Ghert: You can have largeness in a sense. Canada needs large financial institutions. Canada needs large steel companies. Canada needs large brewing companies, large merchandisers, large forestry companies, large petroleum companies, mining companies, if those companies are going to have the capital and the management to compete in international markets. But it is when you put those together, large steel companies with large mining companies with large trust companies, into one bag, that I have the concern about the potential for the impact on our economy and our institutions.

Mr. Callahan: So you have no difficulty with largeness. It is just a question of the conglomerate and the make-up of the conglomerate.

Mr. Ghert: Largeness in itself can be a problem. You have to look at the costs and the benefits and the methods that are used to deal with it, and, as I pointed out earlier, I believe Bill 91 was an honest, sincere and a very well thought out attempt to deal with that issue.

Canada will, I think, if it is going to compete, have to have large companies relative to the size of our economy. They may be much smaller than some of the U.S. companies that they are competing with, but relative to the size of the economy they are still very large as compared to U.S. companies.

Mr. Callahan: Okay. The second question I would like to ask

is I notice that you have created developments in the United States. I would like to inquire as to whether or not the interest rates that they charge bear any relationship to the risk, as opposed to just simply the fact that the bank across the street charges the same interest rate and that is why you pay that amount. In other words, is there any real relationship between the interest rate and the risk, in the States?

Mr. Ghert: Yes. There is a difference between interest rate and risk, and the banks or the financial institutions that compete for the business will generally tend to look at the risk in the same way. We can notice a difference because in some cases we may put guarantees on debt; in other cases, we will not, and of course there is a difference for the perceived risk.

Mr. Callahan: Do you find a different situation in Canada?

Mr. Ghert: No, it is similar.

Mr. Callahan: I will tell you the reason why, and I am looking at it in a very, I am sure, miniscule example in comparison with what you people do in the development business, but I can recall back in my previous life that a client was borrowing \$10,000 on a property that had an equity of about \$180,000 to \$200,000, and when the terms were being drafted, the interest rate was the going rate. I said to the bank manager, it was always my understanding that interest reflected the risk, and he said, no, that is not true at all. He said, we on this corner of the street charge this because the bank across the street charges that, and the bank on the other corner charges that. So there was absolutely no relationship to the risk.

Mr. Ghert: In individual situations, you may not notice it. In my previous life, which probably goes back a bit further, I was involved in the academic community and at that time I did some research. I was living in Vancouver at the time. I did some research that covered a period of about 15 years, actually about 18 years in the Vancouver market.

Mr. Foulds: Which 15?

Mr. Ghert: It was from right after the war, right until 1964. And of course, the financial community was less sophisticated than it is today, but we were able to trace the difference in the availability and the interest rate on financing or purchasing of housing in the different areas of Vancouver. And those areas which were the lower income and which generally had a lower debt service coverage on their mortgages, higher rates of fluctuation of employment, tended to have slightly higher interest rates, on average.

Mr. Foulds: On their mortgages?

Mr. Ghert: On their mortgages, yes. I think the institutions were looking at the perceived risk and said, well--and they do not actually go out and say, well, I am going to charge you more; it is just a little harder to get financing in that particular market, and that is

the case when people. . .

Mr. Callahan: Yes, but I guess what I am saying is, let us say that the going interest rate on a mortgage is 11 per cent, as it was at one point. On a first mortgage--a typical property, it is not a high-ratio mortgage, it is a person with a job and sufficient means--the thing that bothers me is the fact that that 11 per cent is the ceiling; that is the bottom line. Nobody goes below that even though the risk involved is far less than it would be with, say, a person who is taking 75 per cent of their property and mortgaging it. That is where--I get, through looking through this, you are interested in seeing that the market will make the interest work. But it seems to me that in cases like that, what has happened is you have got just an agreement between all of the lending institutions that this is what the interest rate will be and we are. . .

Mr. Ghert: Well, in some ways it is a supermarket approach. However, if the person who is presenting a better credit risk, because of the nature of the property, the loan, the ratio, whatever the reason, spends the time to go shopping, they might get a break in the rate. But I guess the expected advantage is maybe not worth the time. Maybe you might save an eighth or a quarter, and people might have to spend a lot of time to do that.

Mr. Callahan: Okay. Thank you.

Mr. Chairman: Any other questions? Dr. Stephenson.

Miss Stephenson: Yes. Understanding that you believe, and I understand the basis for your belief, that Canada has to have large institutions, and that the federal bill in fact provides for that eventuality without--I am not sure--really solving the problems of the difficulties that arise as a result of it, I am wondering whether you would agree with the position that we heard this morning that in recognizing the importance of size for Canadian financial institutions, one must develop specific, appropriate and relevant regulatory mechanisms within government--that was the suggestion--to insure that the problems which could arise, such as self-dealing, do not arise and that the specific duties of members of boards of directors be more clearly spelled out so that a moral and ethical behaviour is in fact legislated rather than simply suggested.

Mr. Ghert: I agree, to a large extent. I think that the best way to deal with that particular problem to start with is not to have cross-ownership, and even better, but somewhat impractical in terms of where we are now, is not to have large, closely controlled financial institutions. I think we are too far down the line for that now.

So I just do not think we should encourage or countenance any more cross-ownership, because I think that can lead to the temptations of self-dealing, and self-dealing, although you can have all sorts of rules and regulations, you can have boards of directors with more specific accountability, it is still people-dependent, and it depends who is there at that moment. And we may be fortunate that

we have a good group of people there right now, but you do not know who is going to be there in the future. So the best thing is to have a system which does not encourage or does not give the temptation to self-dealing.

Miss Stephenson: Which requires rules.

Mr. Ghert: Rules and structure.

Miss Stephenson: And structure. Right. Okay.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: Yes. Thank you, Mr. Chairman.

Mr. Ghert, in the *Business Watch* there are some comments that I want to make reference to, in particular to--you are talking about the green paper that the federal government have been discussing, I suppose, and the recommendations that followed that; that is, the report of the Standing Committee on Finance and Trade and Economic Affairs. And there are suggestions that perhaps one of the recommendations is there should be a self-governing body established; I guess they call it the NFAA, the National Financial Administration Agency. Do you concur with that report then, in that particular area? Because I think your main concern is that the green paper--you go on to say, "...will lead to an even greater concentration of power than we now have, and the exercise of that overwhelming power could fundamentally change the course of events in this country. There should be limitations on ownership and in particular on who is permitted to own financial institutions."

Do you think establishment of this watchdog, if I can phrase it that way, would perhaps bring in some control measures in this area that would control the special interest groups, you might say, in this area, that they would not have complete control of all the financial institutions? I think in the report or in the discussion paper there, there are some eight or ten families. . .

Mr. Ghert: Any watchdog, or if you want to call it an agency, is not--I mean, it is going to help, but it is certainly not going to make it foolproof. There was--public knowledge, because it was dealt with at one of the federal hearings--in the instance of a shopping centre which Cadillac Fairview ultimately bought from Genstar, there was a situation where the--I guess, was it the Superintendent of Insurance, I think--it turned down a transaction that Genstar had wanted to do with Canada Permanent, and they found another way to do it which got it out of the purview of the regulator, but in fact was doing the same thing they were not supposed to do.

Mr. Haggerty: So following. . .

Mr. Ghert: Now, if Genstar had not owned Canada Permanent, then there would have been no need or temptation or requirement to do that transaction.

Mr. Haggerty: So it goes back to the previous question one of my colleagues raised, that it should be perhaps done by regulation more so than a self-governing body.

Mr. Ghert: M'h'm. But even, as I say, regulations cannot deal with it. There is a regulation that dealt with the specific situation. The regulators said no, do not do that, and another way was found to do it which technically took it out from the purview of the regulator and still accomplished the same end.

Mr. Haggerty: Well, would you say, in comparison, drawing to the type and style of conflict of interest that goes on in the United States and the body that reviews all of this, would you prefer--perhaps it may be better that maybe a body of the legislature, or a committee or a commission be appointed to review any. . .

Miss Stephenson: You have got to be kidding!

Mr. Ghert: No. You would never get anything done.

Mr. Haggerty: But you are talking about regulations. No, I am not kidding about it. I mean, this is the process that is done there that if there is any question of conflict of interest or power going to one or two companies over there or the individuals can take over that, then. . . .

Mr. Ghert: You are talking about the FCC.

Mr. Haggerty: Yes. If it is not strong enough here, then is that fair that you should. . . .

Mr. Ghert: Well, Bill 91 has--I mean, we do not have FCC, but they do have a tribunal where a proposed merger or business combination is subject to the review of that tribunal, if the administrator so determines. But they do not view individual--the FCC, nor is it the mandate of the tribunal to review individual transactions within a group of companies that are already established, and I just do not see how you could do it.

Mr. Haggerty: Well, Congress has that power, if they find out that a merger is not in the best interests of the public as a whole.

Mr. Ghert: That is talking about going into the merger. But once it is there, once you have the business combination that is already there, Congress does not get involved, or the FCC does not get involved in the supervision of that.

Mr. Haggerty: But there is always--there is a safety valve in their style of government.

Mr. Ghert: I may suggest that some of the problems they have in the U.S. are every bit as concerning as we have in Canada. There have been numerous savings and loans institutions that have

had very bad financial problems. There have been a lot of them that have gone under; a lot of them have combined with others; a lot of them have been saved, some of the smaller banks, regional banks. And again, if you look at the ownership structure of those you will find that you usually have some sort of cross-ownership or a major shareholder whose interests are being served.

Mr. Haggerty: Which could fracture the system, though, could it not, because if a special interest. . .

Mr. Ghert: The best way to avoid that is to not have that cross-ownership.

Mr. Haggerty: But if the system of, say, a watchdog here that would have some direction, perhaps stronger direction in this area that you would not have some of these harsh takeovers of certain, what, financial institutions here in Canada. And if you look at Genstar and I guess it would be Permanent Trust and Canada Trust and that, why, the. . .

Mr. Ghert: Well, that is subject to review now.

Mr. Haggerty: Well, it is up for review, but. . .

Mr. Ghert: No, no. What I mean is the tribunal established under Bill 91 would have to--would be entitled to review those transactions before they take place. I cannot recall the time period. I think there is a 21-day notice period, they have to come up with a decision within 21 days, and I think they can ask for an extension. It is a very complicated matter to review in 21 days because you have to look at the costs and the benefits and the impact on the Canadian economy and on consumers.

It is not the intention under that bill to stop all mergers. In fact, I think there is an expression that market concentration in and of itself would not be a reason to stop a merger if there were significant collateral benefits to the merger as far as the Canadian consumer and the Canadian economy were concerned, in terms of jobs and all the other factors that are to be considered.

Mr. Chairman: Dr. Stephenson has a supplementary. Then Mr. Foulds and Mr. Ashe.

Miss Stephenson: My supplementary relates to the fact that you have intimated, in fact more than intimated, that the ingenuity of the business and financial community is such that almost any rule or regulation could in fact be circumvented. But what you are really saying is that you are going to have to have a legislated prohibition of cross-ownership. Now, the question I want to ask you is, can you see that ingenuity extending to finding ways to circumvent that legislation as well?

Mr. Ghert: No. Very, very difficult. You would have to have a lot of informal arrangements at very high levels in order to

circumvent that, and that would mean that people would never be able to have a falling-out over a long period of time, and that is very unlikely. So people would not take that step.

Miss Stephenson: Knowing human beings, I think you are probably right, yes.

Mr. Chairman: Mr. Foulds.

Mr. Foulds: Can you give me a fairly simple definition of what you mean when you talk about cross-ownership?

Mr. Ghert: Cross-ownership is a business ownership structure where you have financial and non-financial enterprises controlled or having a common controlling interest. So you might have a trust company owned by an industrial company, or you might have an industrial company and a trust company owned by a common--controlled by a common shareholder.

Mr. Foulds: If you do not have--you are talking about ownership or control. Do you see any problem in having partial ownership or control on a cross basis between. . .

Mr. Ghert: Shareholdings of up to maybe 10 or 20 per cent might make some sense, and there may be special rules for smaller institutions which do not quite have the power but need the support of a major shareholder to get them started. But even then, in Ontario, we have seen some of the problems that that suggests.

Mr. Foulds: So off the top of your head, and I certainly would not hold you to absolute account on this, what would be your top limit?

Mr. Ghert: Twenty per cent.

Mr. Foulds: Twenty per cent?

Mr. Ghert: Yes.

Mr. Foulds: I have been reading some of the articles that are basically an adaptation, I gather, of a speech you gave in Vancouver, and one of them was in the *Star*, and you indicated that, and I quote: "As an example of what is going on, I know of an instance where if the witnesses were required to testify under oath, they would tell about one financial institution which had instructions from senior executives to the parent non-financial company to refuse a loan to its competitors." I gather that was in 1985.

Mr. Ghert: I do not know when the transactions would have taken place.

Mr. Foulds: Do you know if that is still true today?

Mr. Ghert: I have no idea. I do not know the actual

transactions. At the June sitting of the parliamentary committee, I was called as a witness and I do not recall whether I had to give them the names. They already knew the names of the individuals and they had already interviewed those individuals. So whether they got the information from those individuals or not, I do not know.

Mr. Foulds: Do you know of any other instances, or is that the only one that you know of?

Mr. Ghert: Probably just hearsay. I have had a lot of people call me and give me other examples, and you do not know--it is very difficult to evaluate because sometimes people have a particular row to hoe, have a particular bias. So it is very difficult to evaluate, and what I have done is I have basically just put them out of my head and not worried about them, because I cannot--there is no way I can trace them down, and I really do not have the time. . .

Mr. Foulds: Life is too short.

Mr. Ghert: I do not have the time or inclination to trace them down because I really do not want to deal with the specifics. But I like to deal with the policy matter and on the conceptual basis.

Mr. Foulds: On that conceptual basis, if financial institutions do not own large industrial corporations, and if large industrial corporations do not own financial institutions, who does?

Mr. Ghert: Shareholders.

Mr. Foulds: Well, are you not getting into a circular argument?

Mr. Ghert: No, because you can have--you can go from the--you asked me what would be the limit; you can have a group of individuals each owning 20 per cent of a financial institution.

The key thing is that the shareholder of the financial institution, either his stake in the financial institution is not so large as to concern him relative to his other interests, and also--or, to look at it from the other direction, if a person does not have a major interest in anything other than a financial institution--he might have a minor interest--but has a major interest in a financial institution, their sole concern and focus is going to be what is good for that financial institution and not how it is going to impact their other interests.

Mr. Foulds: And you are seeing that as--spell this out for me--a good thing or a bad thing?

Mr. Ghert: That is a good thing.

Mr. Foulds: It is a good thing. Also in that article you indicated something that at least two of our other witnesses, Mr. Eaton and Mr. Jackman, in my interpretation, indicated really did not

happen, and you said that there is a top management coalition that effectively controls most corporations. I do not think I am misquoting you.

Mr. Ghert: Misquoting them or me?

Mr. Foulds: You.

Mr. Ghert: No, you are misquoting me.

Mr. Foulds: Well, then. . .

Mr. Ghert: If I could put words into Mr. Eaton's mouth, he would say that a top management coalition controls the banks because there are no major shareholders.

Mr. Foulds: Right.

Mr. Ghert: He would say that, I think.

Mr. Foulds: The *Star* article says, and I am quoting directly, "It..." and I have to go back to--I think you are talking about concentration of economic power.

Mr. Ghert: Yes.

Mr. Foulds: "It can provide excess rewards, pecuniary or otherwise, to the top management coalition that effectively controls the group."

Mr. Ghert: Yes. That comes directly out of the brief.

Mr. Foulds: Now, would not that top management coalition exist or be more likely to exist if there were a number of diversified and small shareholders?

Mr. Ghert: Yes. But again, even in that case you should not permit cross-ownership. Even if you have broad shareholdings, you should not permit cross-control of financial and non-financial institutions, because that is where the risk is.

I mean, you might have a large industrial corporation with a very broad, diverse shareholding, and it takes longer in that kind of situation for the board of directors to have an impact on management. Again, it depends on the individual character and personalities. But if you have a very broad shareholding and you have a board of directors--I have seen changes in Canada where companies were not well managed, or there have been particular problems, and it may have taken a year or two more for the board of directors to do something definitive about it, but it usually does happen, because the directors are responsible and have a responsibility to the shareholders of the company.

Mr. Foulds: That may save the company but does it save the

interests of the other players? In the case of financial institutions, depositors, shareholders; in the case of insurance companies, policy-holders; in the case of the resource sector, often whole communities.

Mr. Ghert: But even where you have them closely held, it does not say--you had Crown Trust. You had a major shareholder controlling that and the major shareholder had a major influence on management. So it depends on the strength of character, the personalities, how well the company is being managed.

If the company is being well managed it is very difficult for a major shareholder, even if he wants to do something which management does not want to do, to impose his will, because he knows he has got a company that is being well managed and he is not going to risk that and risk alienating the management. Also, it is very difficult to get management to do things. You can stop them from doing things. You can subordinate; you can stop them. It is hard to get them to do it if they do not have faith in it.

Mr. Foulds: Let me just switch the question around a little bit. Is a top management coalition then just as difficult or possibly harmful as cross-ownership?

Mr. Ghert: No.

Mr. Foulds: Why not?

Mr. Ghert: Because you are not causing what I would call the broad economic and power risk--power cost--economic power, potential political upset that you have from cross-ownership. I mean, you may have a company in which the directors are having difficulty controlling the management or making management changes, in which the directors are not doing their job, and of course it is going to be a risk to the shareholders of whatever that particular company is, whether it is a real estate company, steel company, car company. But the shareholders are taking their chances in that situation, and they can--theoretically, they are in the marketplace; they should evaluate that.

But if you combine--if you then have that broadly controlled company now--you now have it buy a major trust company. Now you have the management coalition in that industrial corporation effectively controlling a major financial institution, and with all the same potential conflicts and self-dealing that you would have if it was one individual who had a major steel business that owned a major trust company.

So what I am saying is, cross-ownership in either circumstance presents the same potential risks.

Mr. Foulds: Okay.

Mr. Ghert: I do not know if I have gotten that across. It is

not an easy subject to deal with.

Mr. Foulds: No, it is not. Sorry, go ahead, Bette.

Miss Stephenson: Does that mean that the management coalition which is inherently bad in one situation then, in your mind, by osmosis or by direct infiltration begins to effect. . .

Mr. Ghert: The financial institution, if you have cross-ownership, whereas if you do not permit the cross-ownership you do not have that risk.

That does not mean that a major steel company or a car company or a real estate company might not have its own problems, but you do not compound it and you do not create that, what I call a tremendous power base. Financial institutions are tremendously powerful.

Miss Stephenson: I guess our concern is that we have heard on several occasions in the last couple of weeks the statement that it was well nigh impossible to have effective management within a financial institution unless there was a major shareholder, and the major shareholder did not necessarily have to be. . . .

Mr. Morin-Strom: I.e., the bank.

Miss Stephenson: No, no, no.

Mr. Foulds: No, not necessarily.

Mr. Morin-Strom: You just said it could never happen. You are implying that. . .

Mr. Ghert: Can I interrupt? Some of our Canadian banks happen to have excellent management, and they are widely held. They are recognized around the world as being very well managed. So you can have wide--and they are very--even the chief executive officer at one of the banks told me when he read my brief that he knew about that kind of circumstance. He was not prepared to disclose it to me. I mean, they are very concerned about their relationships with the public, with their customers, with their shareholders, with their depositors, and how they behave. I think the reputation they have is very good, and they are widely held.

I mean, you can judge whether Chrysler Corporation is a well managed company or not, but there is another company that is widely held. Ford is . . .

Mr. Foulds: It has its ups and downs.

Mr. Ghert: It has its ups and downs. Ford is a more closely held corporation. Is one better managed than the other? I think a lot of it depends on the individuals that are there at that particular time.

Miss Stephenson: Yes, but surely that is the factor, rather than the rule that you have to have a major shareholder in a financial institution in order to have efficient management.

Mr. Ghert: No, it is not necessary. Dealing with Cadillac Fairview, we went through a bad time a few years ago and we had a major shareholder heading the company and he got us into a lot of trouble. We still have a major shareholder but it is a different major shareholder, one who was there at the time but still very passive. Now, if I was doing things they did not like or was not running the company, I am sure I would hear from him.

Mr. Foulds: I am quoting from an article called *Business Watch* by Peter Newman, entitled "Breaking Ranks with the Family." There are two quotes that he attributes to you. One is: "Without limitations on ownership of financial enterprises, adoption of the policies outlined in the green paper, . . ." and that is the federal green paper, ". . . would lead to an even greater concentration of power than we now have."

Mr. Ghert: Do you want to know why?

Mr. Foulds: Yes, and how.

Mr. Ghert: Why and how, because the green paper was promoting the organization, the fact that in some cases--and was making it all mandatory to have financial holding companies. So that if a group owned a number of different institutions, it had to put it in within a financial holding company and that holding company was permitted to set up a new kind of bank; it was going to be called a Schedule C bank. That was creating an enormous power base.

Mr. Foulds: In the financial holding company.

Mr. Ghert: In the financial holding company, where you had cross-ownership. A tremendous power base.

Mr. Foulds: You also say in the article, or you are quoted as saying: "Dispersal of private economic power is thus one of the ways to preserve the system of private enterprise."

All of the trends that we see happening go the other way, towards concentration rather than dispersal. Do you have any suggestions for mechanisms of dispersal rather than--I mean, as well as legislative prohibitions, which you have indicated can be circumvented? I mean, you have put me in a state of total despair!

Mr. Ghert: I am saying self-dealing rules can be circumvented by people who are ingenious and really want to do that and set their mind about it. I think the cross-ownership is virtually impossible to circumvent, the prohibition on cross-ownership.

And as I said earlier in my introductory remarks, I have not come--although I have some intuitive feeling that conglomerate

ownership, leaving aside financial institutions, is a potential risk, I have not come to any conclusions about it because I really do not have a body of knowledge which I can go back and analyze. But it is when you start dealing with getting the financial institutions into the same package--the financial assets move around very quickly and are very powerful. They are very liquid, very mobile.

Mr. Foulds: I think that is a point that you make very clear.

Mr. Ghert: Yes. They are very liquid. They are very mobile. They can move around. They can have an immediate impact. Real assets--in other words, managing a real estate company or a steel company--real assets can sometimes hold the managers and the major shareholders hostage, because they have to be managed; they cannot be sold so quickly; they cannot be moved around. You are in a certain business. I mean, you just cannot. . . .

Mr. Foulds: There are not many people who want to buy a used steel mill or a used pulp mill.

Mr. Ghert: No. So you can sometimes be a hostage to those kind of assets.

Mr. Foulds: Thank you, Mr. Chairman.

Mr. Chairman: Just in supplementary to your last answer, did you say that the cross-ownership cannot be prohibited, you did not feel?

Mr. Ghert: I do not think that--prohibition of cross-ownership would be very, very difficult to circumvent.

Mr. Chairman: All right.

Mr. Ghert: I am sure some smart lawyers might be able to put their mind to it. I think it would be very, very difficult.

Miss Stephenson: Well, let's not give them the idea!

Mr. Foulds: They are already thinking of it.

Mr. Chairman: Mr. Ashe. Then Mr. Callahan and Dr. Morin-Strom.

Mr. Ashe: Thank you, Mr. Chairman.

Mr. Ghert, in a sense it is following along on the same line that we have been on the last 10 or 15 minutes, and it is to do with financial institutions and control or cross-control, albeit in this case indirectly. We have had some--I think more than one testimony before us in the last couple of weeks that--well, to put it in very simplistic terms, that a significant percentage of boards of directors and financial institutions are payoffs to major customers, and that--I do not think anybody put it down in exact percentage terms, but I

think the word "significant" was used. So there again, even without ownership, I think what was at least implied is that a good customer can have a rather significant input on the operation of the financial institution which, depending on the size of the board, depending on the groups that kind of may come together, may not be in the

Have you seen that? Do you agree with that? Do you think that is any cause for concern?

Mr. Ghert: It is a very difficult question to deal with. I am a director of a financial institution and it lends money to our competitors.

Mr. Ashe: That was actually going to be my next question. Are you or any of your other senior management directors of financial institutions?

Mr. Ghert: I am a director of two financial institutions. I mean, that is public knowledge. One is Canada Trust and the other one is Wellington Insurance, which is part of the Trilon group. The chairman of our company is a director of the Toronto Dominion Bank. You are only permitted to be a director of one financial institution. I think once you are a director of one financial--a bank or a trust company, you cannot be a director of another bank or trust company.

Mr. Ashe: You can be one of each?

Mr. Ghert: No. One or the other.

Mr. Ashe: One or the other. Well, is there any--

Mr. Ghert: But we do as much business with other banks as we do with the Toronto Dominion Bank, and they do not necessarily give us the best terms.

Mr. Ashe: There should not be the same concern, if you will, for a bank, for the reasons we have all agreed to and talked about. I mean, generally they are big; they are broadly held, and any one customer, in the major banks anyway, is a relatively small cog in the whole operation.

Mr. Ghert: There are very strict rules in Canada Trust with regard to dealing with directors and dealing with organizations in which they may have--

Mr. Ashe: That is more a corporate policy rather than law.

Mr. Ghert: Yes, but that could be incorporated in the law.

Mr. Foulds: Sorry. That could be incorporated?

Mr. Ghert: That could be incorporated in the law. Some of it is already part of the law. But a director of Canada Trust, even if something is being discussed regarding his particular other interest,

he is not even permitted to be in the room.

Mr. Chairman: Just one thing. . .

Mr. Ashe: Well, I will be finished with this last little bit, just along the same line. Is there any difference plus or minus, in your view, of senior management being on a board, versus senior shareholders? For example, the Bronfmans being on the board of financial institutions, or the Reichmanns?

Mr. Ghert: I do not think it makes much difference. There is a certain degree of concern, I cannot say it is a large degree of concern, of a wide range of interlocking boards of directors. My observation is that directors have been very careful in those circumstances, but the fact of life is that companies are finding it harder and harder to get directors. They want directors who have business experience, who have experience at senior levels in government, who can help them with contacts, and the risk of being a director is getting to be greater. There is certainly far more work involved than there used to be 10 or 15 years ago.

So it is getting more difficult to get directors, and in fact in the United States they are having a very difficult time because of the potential legal liability there.

Mr. Ashe: Well, of course that is the big one, I guess. If you are not having liability insurance protection provided I understand it is practically a no-no.

Mr. Ghert: Well, many Canadian companies do not get to give directors--do not buy directors and officers liability insurance, although they will indemnify the directors. But the Ontario statutes, for Ontario companies and federal companies, impose limitations on the depth and the breadth of that indemnity.

Mr. Ashe: Okay. Thank you, Mr. Chairman.

Mr. Chairman: If I may ask a couple of supplementary questions. You are on the board of directors of what?

Mr. Ghert: Canada Trust and Wellington Insurance.

Mr. Chairman: Now, you have become aware, as a member of the board of directors, of the circumstances of loans to your competitors?

Mr. Ghert: Yes.

Mr. Chairman: How do you handle that? You became aware of some of their problems and their reasons for borrowing . . .

Mr. Ghert: Well, what you see is you see a summary of the loan, and there is usually enough information to help you evaluate the credit, but you do not--in four or five pages you do not get to see a

lot of the detailed information about a competitor. You might see a balance sheet, income statement; you see a discussion of the quality of the credit from the lending officer's point of view.

Mr. Chairman: But you do not--sorry.

Mr. Ghert: You are sometimes asked to comment, if it is on a particular piece of real estate, as to whether the projections make sense or not. In that circumstance what I normally would do is deal with some of the operating people in Cadillac Fairview and get their best estimates of what they thought the rents in that particular market would be, and operating expenses, to see whether they are relatively in line. So in a way it is a service to the institution as well.

Mr. Chairman: What about a circumstance where it might be some real estate that Cadillac Fairview might be interested in?

Mr. Ghert: I am just trying to think if there has been one. There was one particular piece of real estate where there may have been a--there was not necessarily, but there may have been a conflict, and there was an executive meeting. It was being dealt with at an executive meeting of the board of Canada Trust. I did not attend the meeting.

Mr. Chairman: You purposely did not attend those meetings. Would you alert your own firm, though, to the effect that your competitor was. . . ?

Mr. Ghert: No. But the risk certainly is there that--it is not that--we already knew the competitor was dealing with it. So it is not that we did not know. It is just that the loan happened to come up.

Mr. Chairman: What about a circumstance where you might only become aware of it through your position on Canada Trust Co., and then you might absent yourself from a board meeting but still find yourself the following day facing a proposal from within your own company that you might become aware is not as viable for your company to be involved in because you know the other company might be involved in it? I am getting a little convoluted, but if you know what I mean.

Mr. Ghert: No, I do not. Because there is a competitor going after it, we would no longer decide to get involved in that transaction?

Mr. Chairman: Well, supposing you became aware of something in the neighbourhood, say across the street, that was going to be, say, a shopping plaza, and you knew--and then suddenly you came into a meeting in your own company where there was a plan for a shopping plaza based on a survey which determined that there was a need for one shopping plaza in that area, not two, and yet you were aware that there was a competitor who was working on the plan

across the street. Let us look at that problem. What would you do?

Mr. Ashe: Very hypothetical.

Mr. Ghert: I do not know. It has never happened.

Mr. Ashe: The planning process would take care of that one.

Mr. Ghert: Well, I was going to mention that but I did not want to bring in particular Ontario problems because you do not have--I mean, it is different in Quebec; you can have a different situation. Hopefully, we would have known anyway. If we did not, there is something wrong with our management. But there is a possibility you do get some information about a competitor that you would not normally have which may have an implication on a business decision you might make. There is no question about that.

Mr. Chairman: I guess a lot of your decisions depend on tentacles of information, in any event.

Mr. Ghert: Yes. There has been an instance where I have--a transaction in which the trust company has been involved in; I did not think it was, from the trust company's point of view, a particularly good transaction. I expressed my point of view. That certainly did not stop management and the other directors. When it involved real estate, that was my point of view. It had nothing to do with a potential conflict or anything. It was just--you know, they thought otherwise.

Mr. Chairman: Yes. Mr. Callahan, and then--

Mr. Ghert: It was not a matter of winning or losing. That is your point of view.

Mr. Chairman: Mr. Callahan.

Mr. Callahan: I think some of the questions have been asked. I was interested in you being on the board of Canada Trust Co. and Canada Trust and the difficulties you might have.

I hope you will not take offence with the next question I am going to ask. Obviously, whether it be fact or just perception of the public, the Cadillac--your company was, I suppose, in some respects linked in the headlines with the turnover of large numbers of apartment buildings and the subsequent events with Mr. Player and two trust companies. And I have to ask this, just as a matter of curiosity. . .

Mr. Foulds: You do not have to, you are just going to!

Mr. Callahan: Did your interest--and I am not commenting whether I agree or disagree with your comments on the question of these cross-ownerships, or whatever you call them--did that initiate that concern, or spur it on?

Mr. Ghert: No.

Mr. Callahan: You had it prior to that?

Mr. Ghert: I had some concerns for--I cannot pinpoint when they started, but it has been sort of a principle I have had in the back of my mind for a long time, and it was the green paper that really brought it to focus for me because I could see where we might head. I must tell you, the press has been very careful about the involvement of the Cadillac Fairview name with the subsequent flips, so I am not...

Mr. Callahan: Well, I am not for one minute suggesting that that was linked. All I am saying is that . . .

Mr. Ghert: There was a tendency early on . . .

Mr. Callahan: That had to be a devastating experience for your company in light of all of the subsequent press activity about how they were flipped and how trust companies were in fact allegedly used in a fashion such as that to finance . . .

Mr. Ghert: To be rather blunt, my initial reaction was really quite different.

Early in the morning I got the *Globe*, looked at it and saw that the apartments had been sold to some Arabs for \$500 million. My initial reaction was to find--at 6:30 in the morning, wake up the lawyer who worked on it, in Florida, and ask them if there was going to be a Foreign Investment Review Agency problem, because I knew at the time that the price was the best you were ever going to get, that we had sold it at. And I was not worried about the \$500 million, I did not know how it was put together, but I was certainly concerned about whether we were going to have a Foreign Investment Review Agency problem, because I did not want to get them back that time.

So that was my concern. Others may have had other concerns, but that was my concern.

Miss Stephenson: Actually, I thought your first concern would be why on earth did we not sell them directly so that we got that--because you knew that was an inappropriate price.

Mr. Ghert: There is just no way that a real price of \$500 million could have prevailed. I could think of ways, since if you were going to deal with Arabs and there are certain religious proscriptions in the Moslem religion of having interest, of ways to structure a transaction which would look like \$500 million, which in the end was really a way of paying interest, or something like that. There are all sorts of ways.

And then after a couple of days--I never really knew the other parties involved in the transaction, and I had looked at some of their promotional material and found that they had been putting

together MURB's for some time in their companies and therefore I understood how they put this transaction. It was a typical MURB type of transaction. That is Multiple Unit Residential Building, which is no longer a possibility under the Canadian Income Tax Act. But it never occurred to me for a moment that there was not a deposit somewhere. But there was not.

Mr. Callahan: Do you see any--you have indicated this relationship between, say, various types of industries and trust companies. What about insurance companies and trust companies? Would you carry it that far, to say that there should not be this cross-ownership there either?

Mr. Ghert: I am on the public record in the brief as saying that I favour a financial holding company structure, where you might have an insurance company and a trust company.

Mr. Callahan: Because there is--I am sorry, go ahead.

Mr. Ghert: And there are some opportunities and potential conflicts on self-dealing within the various constituent parts of the financial holding company.

Mr. Callahan: Let me give you an example, which I am sure each of us have been lobbied on this issue. There is a firm in the United States that markets insurance something like--at least it is reported, something like--what is the name of that company?

Mr. Ghert: Allstate?

Mr. Callahan: Amscam, or--Amway. Like Amway. And their treatment of it is this: they do not sell you--they try to persuade you not to buy whole life but to buy term, and then the money that is saved you for the term, you invest in investment vehicles. I do not know whether they have purchased an insurance company or purchased an investment company to be able to do that type of--have that type of range of activity.

Mr. Ghert: I have no idea.

Mr. Callahan: But would you not agree that along the lines of what you have told us--maybe not totally analogous but somewhat similar in terms of being able to use one for the benefit of the other, that if in fact this company does own an investment house or an investment company through which they can channel these moneys, that there could be a very significant conflict there in terms of the consumer, in that they might be sold an inappropriate type of life insurance just to free up some more money so it could be put into this investment vehicle?

Mr. Ghert: Well, you are dealing with tied selling in that case, and I think in fact, under the federal government's committee, they sort of said you should not have tied selling.

Miss Stephenson: Tide selling is very clean?

Mr. Ghert: Is it?

Miss Stephenson: I do not know. That is what I am asking. It sounded like a detergent, "Tide," and I wondered why. . .

Mr. Ghert: So that is one salesman selling insurance, for example. You can have that in Canada today.

Mr. Callahan: Yes. The way I am looking at it is if the directors of the insurance company are also the directors of the investment company, then clearly there is a danger in the directors of that conglomerate making bad business decisions in terms of the way their people sell insurance or the type of insurance they provide in order to maximize the open-ended bucks that would be saved to put into their investment company. I find that to be very analogous to some of the examples you have given of the unity of two companies, of an industrialized with a financial institution.

Mr. Ghert: There you have the tied selling of a product, selling two products, two different companies, by one salesman. There is no question that is a problem and the green paper, I think, dealt with that, and also the federal government's committee dealt with tied selling. And I think that most Canadian financial institutions that are not independently owned try to avoid that, but there may be co-operation between diverse institutions, not commonly held, where you have joint marketing.

Mr. Callahan: Or take another example, Eagle Star Insurance owning a real estate company. I cannot remember which one they own but they own--I think it is Trizec.

Mr. Ghert: They did at one time control British Properties, which owned a controlling interest in Trizec.

Mr. Callahan: Trizec. All right. So they sell a house to--a large subdivision to people and they tie the Eagle Star insurance policy with the sale of the house, and it becomes a condition of the purchase of the house that you have to take a transfer of the Eagle Star policy. You cannot cancel it, you have got to take it. You cancel it afterwards if you want. Is that not a similar situation, analogous to what we are talking about in having a conglomerate making decisions?

Mr. Ghert: Trizec was not in house-building and Eagle Star, as far as I was aware, was a life insurance company. But you could have a situation where you have a lender on a mortgage--most times when you want to buy a house you have to get insurance to satisfy the lender, and you are applying for a loan, and the lending officer in the trust company or life insurance company or whichever it is, or bank, if they have some tie with an insurance company, can say, well, I think you ought to go across the street and see Joe right now to arrange your insurance and we can approve the loan right now.

Mr. Callahan: Now, that is analogous.

Mr. Ghert: That is analogous. There is an implication that if you deal with so and so, we can approve your loan more quickly.

Mr. Callahan: And it is analogous not only from the standpoint of actual problems or conflicts, but certainly apparent conflicts.

Mr. Ghert: But you do not have to go deal with Joe across the street. You can go to any other insurance broker you want.

Mr. Callahan: I do not know. I have seen instances of that where people had to take transfers in Eagle Star policies as a condition of the agreement of sale, and if I recall correctly the land company, maybe not on the first instance but certainly behind the scenes, was a company that was linked with--that is my recollection.

Mr. Ghert: It is one thing at a commercial level. It is another thing at a consumer level. I would be more concerned about it at the consumer level than at the commercial level.

Mr. Callahan: Thank you.

Mr. Chairman: Dr. Morin-Strom, and then Mr. McFadden.

Mr. Morin-Strom: Thank you very much. I think this is really significant testimony we are getting today, and I really appreciate the openness with which you are speaking to us, Mr. Ghert.

I wonder if you could give me a little bit of background on your company, let us say in terms of total assets, how much of that is in real estate, the total number of employees.

Mr. Ghert: About \$3 billion. Just under 2,000 employees in total, Canada and the United States. About \$3 billion, book value of the assets.

A lot of our work is done under contract. I mean, since we are a real estate development company, we usually have contractors, subcontractors building most of our office buildings. The security and cleaning are contracted in some of our shopping centres. So it does not represent our total potential involvement with people working in our properties.

Mr. Morin-Strom: That is primarily real estate?

Mr. Ghert: All real estate.

Mr. Morin-Strom: All real estate. I would think, given that number of . . .

Mr. Ghert: And none of it is housing either. We are only in large commercial--office buildings, shopping centres and industrial

properties.

Mr. Morin-Strom: Often we talk about capital-intensity of an industry. The steel industry is usually accused of being one of the more capital-intensive, and I think it--to compare there with the steel industry, a steel plant which had assets of \$3 billion, you would probably be talking about a steel plant about the size of Stelco. I am not sure Stelco even has assets that big. And there you would be talking about something in the order of 15,000 to 20,000 employees. So just based on those--the comparison of the assets and employees, it would look like your holdings are perhaps ten times as capital-intensive as the steel industry.

Mr. Ghert: They are certainly capital-intensive.

Mr. Morin-Strom: So given that, it would seem that given that capital-intensity, the importance of getting the best possible rates from the financial borrowing sources that you are involved with would be absolutely critical to your operation.

Would it be fair to say that one of--a concern perhaps, I do not know, perhaps you are not expressing only the concerns of your company, but in terms of your company's operation would it not be vitally important to your company that in fact capital markets are fair and not being--not available for manipulation by your competitors? Could that be one of the concerns?

Mr. Ghert: That is a potential consideration. I must say, though, that we do business with London Life, it is controlled by Trilon. It is Brascan. Trizec relationship. We do business with Royal Trust. So in terms of what is happening in the market today, no, it is not a concern.

But I say sure, it is a potential, and that is why I am looking at it--if you wanted to look at it from just a narrow point of view, that would be a narrow concern, but I am more concerned about the broad issue of what that is going to do to the consumer and to the Canadian economy and the potential political impact it could have in the future.

Mr. Morin-Strom: One of the statements you made in your federal presentation was that--I do not know, I would have to look it up, but roughly it was that if controls are not put on the possibility of cross-ownership between financial institutions and non-financial institutions, then you saw that further concentration of that type would go on, and that in fact your corporation may have to go into that as well at some point. Why would you have to go into that?

Mr. Ghert: Well, because if we found that we were being excluded, we may find that the only defence that we may have is to do the same thing, to have our own source.

Mr. Morin-Strom: Okay. Well, it seems to get back to my point. I am not saying there is a problem necessarily right now in

terms of what you can get from the capital market. It seems to me that part of the thrust of your presentation is the importance of keeping the financial market separate from the industrial and commercial markets . . .

Mr. Gherl: Let me give you another aspect.

Mr. Morin-Strom: . . .so that capital funds--the cost of capital available to competitive forces in the industrial-commercial realm is in fact a fair one and in fact they are not generating or manipulating their performance via the use, potentially, of a financial institution.

Mr. Gherl: It is broader than that, because more than just the access and the ability to access and get the best rates on funds, it is the power that you can have by controlling financial assets. You can do a lot with financial assets. If you have a big pool of financial assets, you can have a major impact in the marketplace. You can have a major impact on getting people to do things that you want them to do.

If you look at--oh, years and years ago, I guess, there was a possibility I think of buying Great West Life, and we looked at the economics of it and it did not make any sense. The only rationale for buying a major insurance company at the time was to have control over all those assets, and control over those assets means that you have an influence in the marketplace well beyond the size of the assets.

Mr. Morin-Strom: So there is a potential--when you say control, you seem to be implying that there is a possibility of some type of manipulation of the marketplace outside of the financial area.

Mr. Gherl: Well, if you control a range of financial institutions with billions and billions of dollars of assets, you are dealing in the bond market, you are dealing in the stock market all the time; you are dealing in the short-term money market all the time. If an investment dealer does not want to do what you want him to do, you just say, look, we are not going to put any more business through you.

There is a potential for that. Whether it goes on or not, I do not know. The investment dealer is going to look around and say, hey, you know what? Maybe, depending on his character, he is going to say--as a responsibility to his shareholders and his partners--he is going to say, well, maybe what he wants me to do really is not so bad anyway.

Mr. Callahan: It is called politics, is it not?

Mr. Gherl: It is use of power. You can do that, when you have control over those kinds of financial assets. That is sort of a bald thing to do. I think people would do it with more finesse.

Mr. Morin-Strom: Do you see a distinction between the potential danger from a major shareholder, be it an individual or a corporation, having the influence on that power as opposed to the management?

Mr. Ghert: Yes, because there is one step to go beyond that. Because if you have got widely held shares in a financial institution you have got a board of directors, whereas if you just have a major shareholder it is really the major shareholder who is probably giving the direction in that circumstance, or could be.

Mr. Morin-Strom: Could it be because the management...

Mr. Ghert: Well, because if it is just one single financial institution, it may not be that much of a power base. But if you combine them, and then it is really--what is happening is you have got the major shareholder who controls a whole bunch of them saying, in effect, if you do not do what I want we are going to make sure that our companies that are in the financial--our financial institutions are not going to do business with you. You can do that. So the implication would be that it has to be a major shareholder in that kind of circumstance.

Mr. Morin-Strom: One of the contentions from some of those who have said that there should be a major shareholder is that the lack of responsibility in managements, as for example in the bank situation, where the contention is that the top management of the bank really is making the decisions. How would that management potentially benefit from . . .

Mr. Ghert: The management does not really. It is just that--it does not have as much to gain as the shareholder would. But if you read the--I suggest you read the section on power in the federal brief, the brief that I submitted at the federal level. People sometimes have satisfaction out of using power or having power. I mean, once you get to a certain level of satisfying your other economic needs, there is a bit of ego involved in it, and so you can get some satisfaction.

Mr. Foulds: In power.

Mr. Ghert: Yes.

Mr. Morin-Strom: Thank you.

Miss Stephenson: Power corrupts, and absolute power corrupts absolutely.

Mr. Chairman: Mr. McFadden has a question.

Mr. McFadden: Thank you, Mr. Chairman. I just want to explore two or three areas.

First of all, dealing with the responsibility and role of

directors, I notice that--and you mentioned this earlier on and in the material that I have here--you are a director of both Wellington Insurance Co., which falls under the Edper umbrella, and then we have Canada Trust Co., which has moved from one umbrella to the next but it has now become quite a large umbrella under Imasco. You are still a director of both of those companies in this whole corporate environment. I wonder if you could tell me, as a director--and I am not expecting you to give me any confidential information per se, but do you as a director of either of those companies feel that your role as a director is impaired, prejudiced or compromised by the shareholders? Do you feel that either in a real way or inherent?

I am just curious to know because you are one of the--I think the only witness we have had to date who is in this particular position of not being part of management, not being an owner and being on the board of two companies that have major shareholders. How do you feel about your role?

Mr. Ghert: Well, I thought I might be embarrassing the Trilon people in view of my public position. But as far as--I may be a bit different. It really does not bother me too much. It is in the back of my mind, I suppose, but basically when I go to directors' executive committee meetings with Wellington, I am there to do the job for the shareholders and to look after policy-holders' interests, and the attitude is that I do not need the job so if they do not like me, they can get rid of me. If they do not like the positions I take, fine, they can get rid of me if they want. I do not care.

Mr. McFadden: Do you think that is characteristic of other directors, or is that peculiar to you?

Mr. Foulds: I think "particular" is a better word!

Mr. McFadden: I am just curious to know. I am just trying to get--

Mr. Ghert: That is a subjective opinion. I explain it this way. The person who is presently chairman of Cadillac Fairview, at one time he was my direct boss when I was working in Montreal, and he did not object so much that I questioned the quality of his intelligence--that is a good way of saying, you know, "you are stupid"--but what he did question was the fact that I put it in a memo.

I just look at it, look, I am there to do the job and I will do it to the best of my ability and I will say what I want, and if they do not like it--and that is the same at Canada Trust.

Miss Stephenson: Is not one of the problems the fact there are not enough directors like you?

Mr. Ghert: My exposure to the board of directors at Canada Trust is they are a very independent-minded bunch. Very independent-minded.

Mr. Chairman: You do not have some residual tenure back at the university that you could call on if necessary?

Mr. Ghert: No.

Mr. McFadden: Your feeling then--you see, one of the things we are wrestling with here is this whole business about the role of directors, who they are responsible to and for, and whether some form of percentage arrangement whereby X per cent of a board of a financial institution should consist of outside directors, people who are not part of the ownership group or management.

Now, as far as your role in Canada Trust, do you see your responsibility as being to the shareholders, fundamentally? As responsible to depositors and the shareholders? What is your feeling as a director?

Mr. Ghert: This is a very difficult area because under current law today, as I understand it, we are responsible--a director of a trust company is responsible to the shareholders and has to act solely in the best interests of the shareholders, and when there is a conflict between the best interests of the shareholders and the depositors or other customers, creditors, he has to resolve that in terms of the shareholders.

At Canada Trust, at the time of the takeover by Genstar and subsequently the acquisition of Genstar by Imasco, the directors were given that advice but nonetheless they were still concerned about the depositors of the trust company. This does not necessarily impugn any motives to Genstar or to Imasco. It is just that there was a concern that--you know, for the long term, and Canada Trust has entered into an agreement with the Superintendent of Insurance which prohibits certain kinds of transactions.

Mr. Foulds: Can I ask you how that agreement came about?

Mr. Ghert: It was negotiated by management and approved by the--discussed in detail by the board and approved by the board of directors.

Mr. Foulds: Well, was it initiated by the board or was it initiated by the Superintendent of Insurance?

Mr. Ghert: I cannot tell you. There was concern at the board as to how--initially, as to whether it was just the management sitting down with the superintendent saying, what are you going to need? Here is what we would like to do. So I do not know, really.

Mr. Foulds: Okay.

Mr. Ghert: But as a director I am quite satisfied that it was very well thought out and a lot of time was spent on it.

Mr. McFadden: The problem that strikes me in this is that perhaps in terms of a financial institution--and in the new legislation in Ontario, at least trust companies might try to deal with this--it seems to me that defining to a greater extent the role of directors, for example as having a responsibility to the depositors, would be helpful perhaps in clarifying the conflicts and it might at least define the approach that directors might take to their job. Do you agree with that or do you feel that would not be salutary one way or the other?

Mr. Ghert: Well, I brought that suggestion up at one time with a number of lawyers, different lawyers, and they were quite cautious about that approach because they did not know where it would end in terms of the responsibility within the financial institution itself.

The sort of suggestion that I had had was that the directors be responsible and accountable to the creditors for any transactions that would be with the major shareholders of a trust company or a financial institution. So the directors in that circumstance would be very certain to have an eagle eye on that particular situation or arrangement. And also, there is some suggestion I had about the relationship of the auditor with the directors, in that whatever the appropriate regulatory level, that there be a direct relationship between the audit committee of the directors--board of directors--and any federal audit as well, so that it did not necessarily have to go through management and the company.

Mr. McFadden: I take it what you are saying sort of on this one line of questioning is that as far as your experience is concerned, with Wellington and Canada Trust, you have found that you have been able to carry on independently without management pressuring you one way or the other. Is that accurate? I want to be sure. I just want to get it on . . .

Mr. Ghert: Yes.

Mr. McFadden: Now, with regard to concentration of ownership, I am just curious to know, are there any--we are talking here about the financial service sector. What sectors of the economy bother you in terms of concentration of ownership? I know that various things have been mentioned, various articles. What are the sectors that bother you? Or are you just saying the whole Canadian economy basically has too high a concentration of ownership in too few hands?

Mr. Ghert: My major concern is the cross-ownership between industrial and non-industrial, financial institutions. That is my main concern. It is the one that I can actually say, yes, I do have a definite concern and I have analyzed it and I am satisfied that my concern is valid.

Other than that, I really do not. I cannot say I have a--you know, I have an intuitive concern about major conglomerate

ownership, but that is maybe a bias. It is just an intuitive thing, and I look at it and I try and analyze it and I say, well, why should I really be concerned? Is it really a concentration of power? Well, nowhere near the concentration of power that you have when you control financial assets.

Mr. McFadden: So your major worry then is the cross-ownership.

Mr. Gherl: Yes.

Mr. McFadden: The area of competition within the financial services area is something we have been discussing. We have heard different stories on this. One of the points, though, that has been made to us is that in fact today we probably have more real competition in terms of financial services than we have normally had historically. As somebody who obviously uses the capital markets and so on to raise money and to borrow, and so on, what is your view in terms of competition within the financial services sector?

Mr. Gherl: I think there is a lot of competition, and one of the reasons there is competition is because of the changing nature of doing transactions: the way information is transmitted, the fact that the four pillars are breaking down. So that it is really ending up with far more concentration--far more competition, excuse me, let's get that correct. There is far more competition. The Schedule B banks have helped somewhat. They are not large but they are on the margin, they are another competitive element.

It would also, I think, even increase competition more if we had a--I think competition would be increased even more if there was more of a level playing field and that if the regulations in the financial industry were functional, and not on a structural basis, if you--can I explain that? A trust company in its banking business should be regulated the same way as a bank, and banks should be permitted to do things that the trust companies do; in that end of their business, be regulated the same way a trust company would. And so you would have a complete blur. It would help to eliminate the four pillars more and I think also increase competition.

Miss Stephenson: Are you suggesting the elimination, or blurring of all the other divisions as well between--amongst the pillars?

Mr. Gherl: Well, there is a problem, I suppose, with having banks compete on a broad scale in the investment dealer area.

Miss Stephenson: Or trust companies?

Mr. Gherl: As investment dealers, yes. Theoretically, it would be nice to say, well, let us just let everybody compete in all markets, but there are some problems, major conflict problems in having financial institutions act as investment dealers and underwriters.

Mr. McFadden: So it is fair to say that your feeling is it is going to be helpful to the Canadian economy in the long run to have some merging of the four pillars, to have the development of what is probably going to turn into largescale financial institutions of one type or another. Is that fair to say?

Mr. Ghert: I think so, yes.

Mr. McFadden: A final area I would like to ask you about just related to the . . .

Mr. Foulds: Can I ask a supplementary if you are finished with that?

Mr. McFadden: Sure.

Mr. Foulds: How do you square that with your concern about cross-ownership? Because it seems to me you would be . . .

Mr. Ghert: You do not have cross-ownership. You have still got an independent financial institution. It is just in many lines of business. Instead of just selling Camaros, it is selling Trans Ams, or whatever.

Mr. McFadden: So you sell life insurance or you can sell . . .

Mr. Ghert: Well, I mean, the trust companies are finding ways to compete in "the banking business," and the banks are finding ways to compete with brokers. The regulations just make it more difficult. Why do we not just face up to it?

Mr. McFadden: The one final thing--I just want to be sure I am clear on your point on this. In addition to cross-ownership, we have talked about major shareholders of one type or another in financial institutions. I take it first of all you are most concerned with cross-ownership, firstly, and then when you move on to shareholding just within a financial institution itself, are you--I am just trying to clarify what you are advocating. You are advocating a broadly held company, but are you necessarily opposed to having major shareholdings?

Mr. Ghert: I am advocating a maximum of 20 per cent. That is an ideal situation. On the other hand, if you have an individual or a small group of individuals controlling a financial institution, that is not a particular problem for me as long as those individuals do not have any other major business interests. They may have other small family businesses and things--relative to the size of the financial institution, they may be small family businesses and things like that. That would not concern me so much, because their main focus would be what is good for the financial institution.

Mr. McFadden: Well, if I could just focus on one example that came up today. We have the example of National Victoria and Grey.

Basically E-L is in the financial area. Now, what is your comment on that?

Mr. Ghert: As I understand it, the other outside interest he has is not a very serious interest. I do not know, but that is what I have been told. But essentially, that kind of structure I do not have too much concern about.

Mr. McFadden: I see. It is more the . . .

Mr. Ghert: I feel that the decisions they take as shareholders really are related to what is good for that financial group, and the shareholders and depositors in that group, because their other interests are so minor.

Mr. McFadden: So the E-L example is not a problem. It is more the conglomerate models. Okay. I understand. Thank you very much.

Mr. Chairman: Any other questions?

Mr. Callahan: Yes. I just have a clarification, maybe.

Miss Stephenson: Maybe!

Mr. Callahan: At page four of your brief on the green paper, your fourth item, do I take it from that that you--and I gather the rules now are that directors in a financial institution situation in making decisions ought to be more concerned about the wellbeing of the depositors than about the creditors, and that seems to fly in--am I correct thus far? And if I am, that seems to fly in the face . . .

Mr. Ghert: Well, what is the difference between a creditor and a depositor of a trust company, other than looking at the different classes of creditors?

Mr. Callahan: Well, I am thinking--yes, all right. Okay. I suppose in a trust company that is true. You might have mortgagees. Well, it might be the mortgagees.

Mr. Ghert: No. You have debentures. A trust company may issue debentures, subordinated debentures. You can have deposits.

Mr. Callahan: Do I gather that presently within the trust company decisions, that there is more concern given to the shareholders than the depositors?

Mr. Ghert: As I understand the statute under which trust companies are organized, in at least the federal and Ontario level, it is my understanding that the primary responsibility of directors is to the shareholders.

Mr. Callahan: So in fact decisions can be made by the board that would directly impact on, let us say, the security, the rules as to

the type of--

Mr. Ghert: Well, I can rationalize that this way: since you are responsible to the shareholders, it means you have got to do the best job you can for the shareholders. You are not going to be doing a very good job for the shareholders unless you are running the trust company very well, because if you are doing things which are going to harm the depositors you are going to harm the trust company, and therefore the shareholders are going to be harmed.

Mr. Callahan: Okay. But let us go back to one thing that was discussed this morning with Mr. Jackman. The question of there now being \$60,000 in protection for the depositor would allow the directors to broaden the parameters of risk in order to achieve the greatest dividends for the shareholders. Now, do you think that that may be one of the rationales behind this principle within the trust company?

Mr. Ghert: I do not think so. I mean, the--I do not know, but it would be my expectation that if a trust company did not have a good reputation, that even with deposit insurance it would have difficulty maintaining its deposit base.

Mr. Callahan: Well, but add to that the further statement that Mr. Jackman, I believe, made, was that the political reality of the whole thing is that even if you did not have the deposit insurance and if the trust company went belly-up, the government would come in and look after the depositors.

I just cannot square the--that is really a very unusual situation, if you are accurate, in that the shareholders are to be given preferential treatment in terms of . . .

Mr. Ghert: It does not say--it is not using the term "preferential." The statute says you are responsible to the shareholders.

Mr. Callahan: But surely that must bring into the legislation something that is totally alien to--it would seem to me to be totally alien to the whole make-up of a trust company. A trust company is to act for the benefit of the depositors, and not to make decisions based on what is going to be the best deal for the shareholders as opposed to the depositors.

Mr. Ghert: Well, is it much different from any other business? Take our business, Cadillac Fairview. As the chief executive officer, I am responsible to the board of directors. The board of directors is responsible to the shareholders. I mean, that is clear under corporate law. There is no question about that. I could say, well, what responsibility do I have to our tenants? I have got to act for the shareholders. But if I do not look after the tenant--if we do not look after the tenants, we are not going to have very happy shareholders.

Mr. Callahan: Yes, but with respect, I do not think the analogy washes because in the trust companies--I mean, their whole reason for being, as the banks' is, is to try to get people to put their money in their bank or to invest in their securities, or whatever else they peddle. It would seem to me there is--particularly recognizing as well, and I think . . .

Mr. Gherl: They are just buying and selling money.

Mr. Callahan: . . .if government has any role, its role is to create policy that will ensure that the little guy down at the end--I do not want to make this sound overly sympathetic--but the widower or the widower who puts his money into the trust company expecting that his interests are primary, and then we hear that we are running it the same as any other business where the shareholders' interest comes first and theirs comes secondary.

You know, I can see when you get into your type of business, or any other type of business besides a trust company, the people who borrow are sophisticated people--or that loan, that become creditors, are sophisticated people. They are selling you a product; they are getting an economic benefit; they may be selling it at an enhanced price. So they really have much of their money back already.

In the situation of a trust company, we have people putting money into what they think is a secure situation. It would seem to me that the rules should be much different in terms of your first responsibility. It should be to the depositors and to the people who. . .

Mr. Gherl: People have come to accept the fact that it is going to be secure, because even if it is not, the government is going to bail it out.

Mr. Callahan: Well, we found out this morning from Mr. Jackman that they do not walk around with big placards telling their depositors that if you put in \$120,000 you are only going to be covered for \$60,000. That is another . . .

Mr. Gherl: Well, there is some point--I mean, I have got a bit of a beef or two in the credit insurance, in that regardless of the financial standing and quality of an institution, they pay the same rate of insurance, and they pay the same--as I understand it, the insurance is calculated on total deposits, not just on total number of \$60,000 deposits. In other words, if you go and deposit a million dollars, even though you are only insured for \$60,000, the financial institution pays insurance based on the million-dollar deposit.

Surely there must be some way of rating institutions for their creditability, and also charging--and giving the depositor a choice as to how much insurance he wants and let him--and he pays for it. The only argument that I have against that is that it would mitigate starting up small institutions and getting more competition, because those small institutions would be the ones that are paying the highest rates, and if you were a depositor, you would go to them

and say, well, you are going to have--when one of the major banks is paying you 10 per cent interest, you are going to want 13 per cent from a smaller institution because you are going to have to pay a much higher insurance fee.

Miss Stephenson: That is the time that it really needs a major, major shareholder in the institution, in the beginning, and then you phase out that large holder.

Mr. Ghert: Well, maybe. You know, it is a problem, because people--I think people are more aware of it today, of the potential risk, because we have had a couple of banks go under, a few trust companies, and it has been covered in the press. So those people who read the paper are more aware of it and they, you know, ask the question. I do know of people who will not put more than \$60,000 with any one institution.

Mr. Callahan: I agree with your secondary point that maybe there should be a rating scheme.

But to get back to my original question as to surely there is a distinction between a financial institution, be it a bank or a trust company, in terms of their obligations to the depositors, at least on an equal par with the shareholders if not better than the shareholders, because these people are not really, number one, very sophisticated, as would be a person who sells a product as a creditor to a commercial company.

Mr. Ghert: I have two comments I will give. First of all, I think that my experience at Canada Trust has led me to observe that that probably--to some degree that is the case with the directors of Canada Trust. They are concerned about the creditors, the depositors of the trust company.

I think there is also, though, on the other side, there has been over many, many years the assumption that the regulatory authorities are looking after the depositors, because there are regulations as to what trust companies can do, as to what they can invest in and what they cannot invest in. There are regulations as to what banks can do. So the assumption is that, with the capital requirements and the insurance and the restrictions on the powers, that somehow the regulatory authorities are looking after the creditor.

It is only when management and the directors go beyond those powers that the creditors or depositors have problems. And I think that has been a sort of a--the assumption that has been out there.

Mr. Callahan: Well, I suppose what really twigged me to it was that in--this is your brief. In the fourth item on page 4 it says:

"The viability of the entire financial system requires that it be clearly recognized by everyone that interests of creditors of

financial intermediaries should have, in all cases, priority over the interests of providers of equity capital to those financial institutions. Much less concern should be shown for the shareholders of financial enterprises, except perhaps in the exploitation of minority by majority shareholders such as banks, trust companies and insurance companies, than for their creditors. "

Mr. Ghert: That is right.

Mr. Callahan: And I gather . . .

Mr. Ghert: I am talking about not so much on an institution-by-institution but on an overall system point of view. What I am saying is, let us set up a structure in terms of the restrictions on conflicts, self-dealing, cross-ownership, which in effect gives creditors more protection.

Mr. Callahan: So you are not saying there that in other than those situations that--but even there you went on to say, if I might, you said:

"In passing, we find it very surprising that in planning to provide assistance to Dome Petroleum, the federal government made no effort to see that the banks' shareholders were penalized for their managements over extension of credit to Dome Petroleum. "

And that goes further. That seems to go into the question of if the shareholder--if the directors, in making a decision to maximize the dividends to the shareholders, i.e., by perhaps loaning to Dome, that they are putting their emphasis on the dividends for the shareholders and saying, as far as the creditors are concerned, the depositors, "You are in the background." Now . . .

Mr. Ghert: I do not think they did that, though. They thought it was good business that they were just . . .

Mr. Haggerty: They were looking at \$90.00 a barrel.

Mr. Ghert: They looked at the situation with the--what was the name of the--well, there was the Beaufort but also the way that, at that time, the federal government was encouraging the repatriation of the oil interests and petroleum interests. And they looked at it and probably thought this is a great loan, a very secure loan. I guess they made a mistake.

Miss Stephenson: They were not the only people who felt that way.

Mr. Ghert: They made a mistake, I suppose, but with the result that at the time that the negotiations were going on with regard to the Dome situation, there was a concern over the viability of the financial system because of the large liabilities involved, and what would happen if the federal government just said to the banks, well, look, you are big boys; you look after it.

In that circumstance the banks would have had to take some very large--taken some very large losses on their books, with the result that if they had done that it would have had a big impact on the shareholders.

Mr. Callahan: Well, the long and short of what I am getting at is--that is your statement, is it not?

Mr. Ghert: Yes. That is what I think they should have done.

Mr. Callahan: So you do agree that there should be greater emphasis in decisions by the directors on the depositors rather than...

Mr. Ghert: Than what there is in the law today, yes.

Mr. Callahan: . . . than putting the shareholders first?

Mr. Ghert: Yes. I am not saying that they--I think that the directors should be concerned about the depositors as well.

Mr. Acting Chairman (Mr. Henderson): Mr. Haggerty had a supplementary on that.

Mr. Ghert: It is not there in the law today.

Mr. Haggerty: That is the point I was coming to about the depositors there. I mean, you know, I think the shareholders or the corporate directors, their main concern is what they can garnish out of the depositors there. I mean, the spread in the money and that particular area there.

I mean, as we listen to some of the witnesses that appear before us, in particular the trust companies and that, and the banks, especially I think back here a few years ago, not too long ago, that any money that a depositor put into the bank is returned at the peak period, about '82 or that, '83 in there, was about 10 per cent return on his money in the bank, but the spread between that was up as high as 23 and 24 per cent. So they more than doubled their investment.

At one time the banks--the spread in what the depositor was putting in and what they were returning--what the return was on it was about one and a half spread, but now it is still up there about seven per cent, you know, and that is a big turnover there, you know.

I mean, you can get--one of the bank directors can be very critical of the government, the federal government, even the province, saying that you have got to reduce your deficit, you know, and you are the ones that are causing the high bank interests now in Canada. It really was not the government. If the government had not gone in and bailed out Dome Petroleum we would not have a deficit there neither, but it was a big benefit to the five major banks in Canada that the government took that initiative to bail them out.

Mr. Ghert: Well, they did not exactly bail them out. It did not end up with a bail-out, though.

Mr. Haggerty: No, but it was . . .

Miss Stephenson: But the intent was not that in the first place. The intent was, and I well remember the federal-provincial discussions, because I was there, where the mega-projects were considered to be absolutely essential for energy self-sufficiency in Canada and for the advancement of the economy. And there was an agreement--there was not an agreement, but there was a principle that was reached that specified that the federal government might never have enough money to do this on its own so it had to rely on financial institutions, but it was going to be--they were going to prop one another up in this whole area of trying to . . .

Mr. Haggerty: They certainly did prop them up, didn't they!

Miss Stephenson: Well, this was the Trudeau era, Mr. Haggerty, it was not the current era. But it was a philosophy which was accepted.

Mr. Haggerty: Based upon \$90.00 a barrel by 1990.

Miss Stephenson: It was not based on \$90.00 a barrel.

Mr. Haggerty: Sure it was. It was all geared to that factor there.

Mr. Acting Chairman (Mr. Henderson): Okay, can we get back to Mr. Haggerty's supplementary? Have you posed your supplementary?

Miss Stephenson: It is simply that indeed the action which was taken was certainly not anticipated at the time that the activity was begun.

Mr. Acting Chairman (Mr. Henderson): Mr. McFadden, did you have a supplementary?

Mr. McFadden: Well, I was just going to make a comment. I think our witness is sort of winding up in the middle of the debate on the committee rather than us looking for his testimony.

The only thing I would say, though, in fairness to directors of banks and trust companies, insurance companies and everything else, and their management, is that who can anticipate, you know, 20 years in advance or 10 years in advance? I mean, the federal government made a commitment, you know, a number of years ago in the mega-project area in the energy field. Who disputed it? The odd person did and they were dismissed as Cassandras, you know, and everybody got onto the bandwagon, looking . . .

Mr. Callahan: I did not want to raise that actually. That was

raised in paragraph 2 of the brief, that is the only reason I . . .

Mr. McFadden: No, but all I am saying is that while I think you can question some loans made by the banks . . .

Mr. Ghert: Yes, people do make mistakes. But all I am saying is that in the discussion, the subsequent discussion of the problems, the main focus at the time was the credibility of Canada's financial system and not, well, you know, "You made mistakes, you have to pay for it."

Miss Stephenson: That is right.

Mr. Ghert: Had it been a non--had it been something other than a financial institution the shareholders, in effect, in the e would have ended up paying for it because it would have come out of the earnings and the capital in the company.

Mr. McFadden: Precisely. A difficult situation.

The problem that Mr. Callahan raised about the responsibility of directors I think is a complicated one.

Mr. Ghert: Yes, a very difficult one.

Mr. McFadden: It is one, though, that is going to have to take some reviewing because I think the--I do not know how you rate them, whether they are equally responsible to depositors and shareholders or one is more important than the others, or whether you try to have some directors essentially elected to represent depositor interest, which is one of the proposals.

The only problem, I would think, with that is that I would think at a board meeting you may not be able to dissect things that carefully. You are going to elect, hopefully, directors who are good directors who understand their responsibilities. I do not know how you can dissect this up that finely so that people just are wearing one hat alone and that has to represent their particular interest. I think from a legal sense that would be very hard to define, let alone from a commercial point of view.

Mr. Ghert: You see, the directors represent the shareholders. They are elected by the shareholders. They are responsible to the shareholders. Therefore, I think that the area where you make the directors more accountable is on transactions between the financial institution and the shareholder. Because in any business people are going to make mistakes. Even the best, most well-intentioned people are going to make mistakes from time to time and so in some cases you may have some depositors suffering in a particular financial institution because some people made mistakes, not through malfeasance, fraud, or anything like that, just plain making mistakes.

But where you can make directors more accountable is on

the relationship between the institution and its shareholders, particularly where you have a major shareholder. And those happen to be--those are really self-dealing, conflict type of situations. Because you are assuming he is going to be acting in the best interests of shareholders. If he wants to do that in a way which endangers the position of the depositors then he knows he is going to be accountable and he is going to watch management does not do things which are going to make him accountable directly to the depositor.

Mr. Callahan: Make every depositor a different class of shareholder with no voting rights, and then they eliminate the problem entirely.

Mr. Chairman: I wonder if I could ask a question, in your role as director, again, of Canada Trust.

The subject came up this morning as to the trust funds that trust companies should have, the trust funds that they have to administer. And I just wonder what, in your view, the fiduciary--what sort of control does Canada Trust really have over the fiduciary funds it administers? For instance, could they use them in a bail-out or something of that nature?

Mr. Ghert: In a which?

Mr. Chairman: In a bail-out, if they were really strapped for funds?

Mr. Ghert: In a bail-out of whom?

Mr. Chairman: Of themselves.

Mr. Ghert: I doubt that.

Mr. Chairman: What about the parent companies?

Mr. Ghert: There are restrictions as to what you can do with fiduciary funds which are even more tight than corporate funds. I think my observation is that trust companies are very much concerned about those fiduciary responsibilities, even to the point where sometimes I think that in order to come out on the right side, from the point of view of the perception of the fiduciary responsibility, they may not make the best decisions.

But they are very concerned that it be perceived that they are doing the right thing. You see this sometimes in takeover situations, where the institution will tender shares into the market, or sell shares into the market rather than hold on even though there might be a higher bid coming or they know that it is still not a high enough price. They are afraid that if they do not tender their shares and the takeover does not go through, their shares will drop again. And therefore they--or sometimes it might even make sense to hold onto the shares and be a hold-out, even if the takeover takes place.

Sometimes it pays to hold onto the shares, to be there and you can be a thorn in the side of the company that takes over the company and they will have to buy you out and you can hold them up for more. But they are concerned that if the offer was made at 55 and the shares ultimately, for a time, go down to 45, even though they may have made the best decision to hold on they are going to be criticized, so they tender the shares. They are very, very concerned about the appearance of those fiduciary responsibilities, in actual fact.

Mr. Callahan: Is that not a reason why the conflict-of-interest guidelines should not make this a requirement that the trust company be one of the trustees of your blind trust?

Mr. Chairman: Was there not a recent decision which suggested that there may be an increased amount of liability on the trust company, on the part of the trust company, for making sure that the investment is the best investment possible?

Mr. Gherl: I do not know about that.

Mr. Chairman: It seems to me I read about a case recently where a co-executor who was not sophisticated refused to sell some shares, and the trust company did not press the issue and was eventually sued. Do you know about that?

Mr. Gherl: I do not know about that.

My experience is that they tend to be very much aware and concerned and sensitive to their fiduciary responsibility. And they have separate departments that deal with trust, from their normal banking.

Mr. Chairman: Our concern this morning had to do with the quarterly report of Canada Trust Co., which suggests that the book value of the funds administered is about \$51 billion now. When you look inside, it would seem that the company is worth about \$23 billion in assets, the rest presumably being trust funds that are administered. So the company has reported to shareholders that it is more than twice as big as the actual assets. If the shareholder did not bother opening . . .

Mr. Gherl: Well, assets under administration, yes.

Mr. Chairman: All right. Okay. Thank you.

Mr. Gherl: Thank you.

Mr. Chairman: This has been a very, very valuable afternoon for all of us. I think you have heard compliments from both ends of the political spectrum as to your forthrightness and your genuine assistance that you have given us, from a perspective that we have not seen before.

Mr. Gherl: Thank you.

you. Mr. Chairman: We all appreciate it very, very much. Thank

Mr. Gherl: Thank you. It was a pleasure for me, too.

Mr. Chairman: Thank you.

Members of the committee, remember that tomorrow we will not meet until 2:00.

The committee adjourned at 4:05 p.m.

F-16

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
CORPORATE CONCENTRATION

WEDNESDAY, OCTOBER 1, 1986

Afternoon Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIR

CHAIRMAN: Cooke, D. R. (Kitchener L)
Ashe, G. L. (Durham West PC)
Barlow, W. W. (Cambridge PC)
Ferraro, R. E. (Wellington South L)
Foulds, J. F. (Port Arthur NDP)
Haggerty, R. (Erie L)
Henderson, D. J. (Humber L)
Mackenzie, R. W. (Hamilton East NDP)
McFadden, D. J. (Eglinton PC)
Stephenson, B. M. (York Mills PC)
Ward, C. C. (Wentworth North L)

Substitution:

Poirier, J. (L) for Mr. Ferraro
Callahan, R. (Brampton L) for Mr. Ward
Hennessy, M. M. (PC) for Mr. Barlow
Morin-Strom, K. (Sault Ste. Marie NDP) for Mr. Mackenzie

Clerk: Mellor, L.
Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witnesses:

From Consumer & Corporate Affairs Canada:
Goldman, Calvin S., Director of Investigation and Research
Competition Act
Khemani, R., Chief, Special Studies
McNaughton, Ian, Manager, Financial Services Unit

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Wednesday, October 1, 1986

The committee commenced at 2:08 p.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: We have the reputation, according to Mr. Mackenzie, of starting faster than most chairmen, so let us get going.

This afternoon we have with us the representatives of Consumer and Corporate Affairs Canada, and it is with great interest that we are looking forward to your presentations because of the fact that this is an area of shared jurisdiction, very much, and one in which the federal government, frankly, has probably over the course of the last several years spent more time and effort, perhaps, than we have. I do not know whether that is a fair comment or not, but we are certainly interested in what you have done, what is going on from the federal perspective.

As the Committee looks to the witnesses, from the left is Ian McNaughton, from the Financial Services Unit; Mr. Calvin Goldman, Director of Investigation and Research, Competition; and Mr. Khemani, Chief of Special Studies.

Mr. Goldman, I understand you have a few comments you wish to make. There will be a written presentation that we will receive in about a week, and . . .

Mr. Goldman: Yes, Mr. Chairman. I do expect to take some time to convey to you at the outset in my remarks, and subsequently, the comments that we have on some of the issues that are before the committee. And with your indulgence, I would propose to present to you now a good part of what will largely follow in the written submission and then, if this is satisfactory to you, then take any questions that you may want to pose to me.

I would like to say at the outset that I am pleased to have been invited by the Standing Committee on Finance and Economic Affairs to contribute toward the discussion on these important questions. You have already indicated who is attending with me. They have assisted in the preparation of the material that I will be presenting today.

The financial sector in Ontario plays a crucial role in the context of the Canadian economy. The province's share of financial sector activity is larger than that of any other province, and legislation and regulations which are implemented by Ontario often serve as a model for other provinces.

All these policy reforms in Ontario are therefore pivotal in shaping the character of our domestic capital markets, as well as in determining their international position and competitiveness. And in accepting the invitation extended by your committee today, I would like to initially point out that my appearance today is in my capacity as the Director of Investigation and Research under the Competition Act and not in my role as Assistant Deputy Minister, Competition Policy.

As such, the views I shall express are not intended to necessarily reflect those of Consumer and Corporate Affairs Canada, of which my office does form a part, nor are they intended to necessarily reflect the views of the federal government. I am appearing in my capacity, which is a statutory capacity, as Director of Investigation and Research under the Competition Act.

As Director of Investigation and Research, I have primary responsibility for the enforcement of the Competition Act. You may note that the new legislation, the Competition Act, was enacted on June 19 of this year. It is a general law of general application to both the commodity, production and service sectors of the economy. The objective of the Act is to assist in maintaining effective competition as a prime stimulus to achieving maximum production and distribution of goods and services at the lowest possible costs.

In this regard, the Act seeks to promote economic efficiency and innovation in the marketplace. The Act is designed to facilitate technological and organizational changes in a dynamic and progressive environment, and to ensure that firms compete fairly with one another, and to eliminate artificial restraints in the marketplace. It has specific provisions which prevent abuses of concentration of economic power in the marketplace, and it thereby serves the interests of both consumers and producers.

The Act contains specific provisions which give rise to inquiries by my office, and then subsequent proceedings within the framework of the criminal law in certain instances of statutory offences, and also within the framework of administrative law in respect of other reviewable matters including mergers and abuse of dominant position. The latter two are new concepts, and I will be elaborating on them in the course of my remarks this afternoon.

These provisions apply, with certain exceptions, to the supply of financial services and products. And I will go into detail in that regard as well, including the exceptions.

In addition to my enforcement role, the Competition Act also authorizes the Director to make representations before federal and provincial regulatory boards, commissions and tribunals, subject to certain conditions, for the purposes of drawing attention to considerations relevant to the maintenance of competition in connection with the matter that is being heard by that commission or tribunal. And it has been common for the Director to be invited to present his views before parliamentary and other committees in the

past, so that this appearance is not one that proceeds without precedent.

The financial services sector plays a very important role in facilitating economic growth and overall social prosperity by channelling funds from savers to borrowers and investors. The more competitive and efficient is this channelling process, the more likely funds will be made available and allocated according to their highest valued uses.

In this regard, it is important to recognize that government policy, in my view, should generally strive to establish a framework which fosters a dynamic, innovative and efficient financial system, a system in which both high levels of concentration and regulations to maintain financial sector stability do not give rise to situations which unnecessarily impede competition and economic efficiency.

The stability of the financial system is without question the paramount goal of a financial market and financial market regulation. The current structure of the financial market in Ontario is dictated by both regulatory factors and market forces.

While it is recognized that there is generally a tradeoff between system stability and competition, it should also be acknowledged that this tradeoff can be improved upon by adopting regulatory policies that are more flexible and better designed to enhance competition. And that is one of the paramount factors that I might suggest your committee have regard to in the course of your deliberations: the matter of developing regulatory policies which concurrently do not unnecessarily impede competition.

It is hoped that my remarks today will contribute toward a better appreciation of the complex nature of the issues involved, and they are complex. In my presentation, I will initially discuss the different concepts and concerns associated with the various dimensions of corporate concentration, and in this connection I want to make it clear that my primary focus will be on the relationship between corporate concentration and the exercise of economic or market power in a given market. I will also discuss the role of other structural factors which influence the state of competition in financial markets, such as barriers to entry of new firms.

I will then describe the major provisions of the new Competition Act, which I might suggest you will find of interest in the course of your deliberations.

As I indicated, the focus of my remarks is on corporate concentration in relation to a given market, as opposed to issues which may arise from aggregate concentration per se. And that is because the Competition Act examines both criminal and administratively reviewable matters in the context of the effect of certain practices and conduct in relation to specific markets. And that is a very important concept to understand at the outset of my remarks today.

I would suggest, by way of overview, that corporate concentration in a given market becomes a matter of major concern when market participants are insulated from competitive pressures. The freedom of firms to enter particular markets is, in my view, a very important device for ensuring competition and for ensuring increased efficiency, and for preventing abuses of market power by incumbent firms.

I believe that public policy instruments can be applied to substantially enhance competition in financial markets without concurrently compromising the stability and solvency of the financial system.

If I may, Mr. Chairman, I will now proceed to discuss some of the issues posed by concentration in the financial services sector. And under that broad topic, my first sub-topic--and I thought this may be helpful--is to provide you with our perception of the framework that can be applied for analyzing various concepts of corporate concentration.

Corporate concentration is multi-dimensional. It encompasses four complex and important concepts, namely: first, aggregate or overall concentration in the financial services sector; secondly, concentration in specific financial markets; thirdly, conglomeration of financial services; and fourth, ownership concentration.

Now, the first concept, which I have called aggregate or overall concentration, measures the relative position of large firms in the economy as a whole or in given sectors of the economy, such as the financial services sector. The second concept, which I have called market concentration, measures the relative position of large firms in specific markets or industries, such as the provision of residential mortgages or commercial loans. The third concept, conglomeration of financial services, refers to the degree to which different financial firms may be under common ownership or control; for example, a trust and mortgage loan company and an insurance company may have intercorporate ownership linkages and form parts of a larger conglomerate firm. Conglomeration may take place solely within the financial services sector or be extended to non-financial activities as well.

And finally, the fourth concept, which I called ownership concentration, relates to the extent to which shares of financial institutions are widely held and traded, or closely held by a few wealthy families or corporate entities. Now, definitions differ as to what level of ownership constitutes a corporation being closely or widely held, and I will not expand on that at this time.

These concepts are, in some respects, interrelated. High levels of aggregate or overall concentration in the financial services sector may be the result of the presence of large financial institutions, for example the Royal Bank, and they may also be the

result of conglomeration and common ownership control of different financial institutions, for example the Edper-Trilon holdings of Royal Trust Co. and London Life.

These institutions, individually or combined, may not only be large in terms of their absolute size, but they may also account for a significant share of activity in specific financial markets such as commercial loans, residential mortgages and life insurance. Thus, absolute corporate size as well as market concentration may underlie prevailing levels of aggregate concentration.

Now, in addition to distinguishing between these concepts, I would like to mention that the discussion of corporate concentration has not been assisted, in my view, by the lack of relevant data on the matter of corporate concentration. For example, using public records, one can obtain information on the assets or other size parameters of various financial institutions. But information on their individual lines of business activity or intercorporate linkages is generally not as widely available. And if we are to intelligently discuss the questions about various facets of corporate concentration, we need to have both concepts and measurement issues clearly defined, and more information than is currently available in the public domain.

Having set forth for you our view of the conceptual framework for analyzing issues of corporate concentration, I will next turn to the elaboration of some of the concerns raised in relation to corporate concentration. A number of concerns have been raised in connection with the phenomenon of corporate concentration, and the first set of those concerns relates to whether or not high levels of aggregate concentration represent undue accumulation of economic, social and political power, which can result in corporate influence on government decision-making.

I would like to state, as I tried to do earlier, that assessing the validity of this set of concerns falls outside the mandate of my particular office as Director of Investigation and Research. It is an area which social and political scientists and elected officials like yourselves are in a better position to study and evaluate. As a result, I do not propose to comment further on these particular concerns relating to aggregate concentration per se.

A second set of concerns relates to the extent to which corporate concentration results, first of all, in concentration and in dominance in individual markets; and secondly, in some instances, in the anti-competitive practices and adverse economic effects in those particular markets. In addressing these issues, one needs to examine the economic environment within which large single-industry firms as well as conglomerate affiliated firms operate in fact.

This requires analysis of the competition and economic efficiency implications of various elements of market structure, including government regulations. This is a particular area which is connected with the mandate of my office, and I will examine in detail these competition-related issues after I have briefly discussed two

additional sets of concerns that have been expressed about corporate concentration in the financial services sector.

The first of these additional sets of concerns is that conglomeration of different financial services and ownership or control of financial institutions by non-financial corporations may increase the risks and incentives for engaging in self-dealing, conflicts of interest and non-arm's-length transactions. Such practices might negatively impact on depositors or shareholders of financial institutions and on the stability of the financial system as a whole.

And the last or fourth set of concerns relates to concentration of ownership. These concerns follow the conceptual framework that I have given you earlier, and this last set of concerns can be summarized by stating that ownership concentration has been linked to the first and third set of concerns; it is not exclusive, but ownership concentration also raises issues in respect of such matters as corporate governance, minority shareholders' rights, entry into the financial services sector and the market for corporate control generally. And while these last two sets of concerns do not fall directly within the scope of the Competition Act, broad competition-policy-related issues may nonetheless be encountered in addressing those concerns, both federally and in Ontario.

This is because regulatory or other measures which are aimed at addressing concerns regarding self-dealing, conflicts of interest and ownership concentration may adversely affect the flexibility with which financial institutions can operate and compete in particular markets. Such measures may also limit inter-institutional competition and impede the realization of potential synergies and economies.

In other words, such regulations may be overly broad and thereby affect adversely competition in given markets. Therefore, I propose to initially comment on these latter concerns in relation to my interest in maintaining competition before addressing the more detailed concerns that arise about abuse of dominant power in relation to individual markets.

Turning then to the set of concerns pertaining to self-dealing, conflicts of interest and ownership concentration, I suggest that self-dealing can be broadly defined as a non-arm's-length transaction or a related-party transaction. This would include transactions of any kind between a financial institution and its principals, be they major shareholders, directors or senior officers of the institution, or companies which these principals may own or be affiliated with. It would also include transactions between a financial institution and affiliated firms.

As we are all aware, the problem with self-dealing is that business decisions can in some instances be biased to favour the interests of the principals against the interests of affected third parties, such as minority shareholders, depositors or owners of

administered instruments. It is thus quite important to keep in mind that the issue is not self-dealing per se, but rather the potential for abuse in self-dealing situations.

Conflict-of-interest situations arise whenever a financial institution must choose between its own interests and those of a client on whose behalf it is acting, or whom it is advising. In the financial sector, such conflicts can arise whenever particular combinations of financial services are offered within a single institution. Examples of institutions being placed in potential conflict-of-interest situations include the following types of combinations: commercial lending combined with management of trusts; and, as a second example, securities-related activities combined with trust management.

There are a number of policy options available to address the problem of self-dealing abuses. One alternative is to prohibit self-dealing. Currently, there are a number of specific provisions in the federal and provincial laws governing our financial institutions which restrict certain transactions between these institutions and persons and corporations defined as not being at arm's length. These include prohibitions on loans to directors, officers and substantial shareholders, and investment in shares or debt securities of a substantial shareholder.

An additional policy option, and one which has gained support in the financial regulation debate over the past year, would be to employ procedures which would ensure that non-arm's-length transactions are just and reasonable and are within the normal range of business activity in terms of price, terms and conditions. Such an approach would involve a system of review of proposed non-arm's-length transactions by an internal control committee consisting of directors who are independent of the transaction. These review committees would be legally responsible for determining that the institution's interests, as well as those of its depositors and policy-holders, would not be compromised as a result of a proposed related-party transaction.

Under such a review system, arm's-length transactions could be approximated, and third parties and regulators would have a high degree of assurance that these deals would fairly reflect those which would be expected to occur in the open marketplace. The result would be that abuse of transactions could be blocked, while those productive transactions which would contribute to the efficiency of our financial sector and the economy as a whole would be allowed to proceed.

A common method of minimizing potential consumer losses from conflicts-of-interest situations has been to eliminate the potential source of conflict through prohibition of particular combinations of financial services. Regulatory separation of core functions has, however, come under pressure for a number of reasons.

First, judgments differ about which conflicts pose

insurmountable problems for financial institutions. Some nations enforce separability of particular functions, whereas others do not. By way of example, Canada and the United States enforce separation of underwriting and commercial lending, whereas Switzerland and the Federal Republic of Germany do not. The United States allows commercial banks to also provide trustee services, whereas Britain and Canada do not. And similarly, Canada and the United States allow a single institution to both underwrite and distribute securities, whereas in Britain, until recently, that did not occur.

In nations which do not impose separation to avoid particular conflict-of-interest situations, other private and regulatory arrangements have evolved to minimize abuses.

A second reason why regulatory separation of financial services has come under pressure recently is that increasing overlap in functions among financial institutions in Canada has been occurring for some time, usually without resulting in major conflict-of-interest abuses. Existing potential conflict-of-interest situations include trust management and basket-clause commercial lending . . .

Mr. Foulds: What kind?

Mr. Goldman: Basket clause. It is the 7 per cent provision that allows for the basket of investments in non-trust-related functions. Perhaps I can elaborate on that shortly. It is otherwise called a "basket clause."

Mr. Callahan: Is that in our glossary?

Mr. Bond: No, it is not.

Mr. Goldman: If you would like, I can ask Dr. Khemani to expand on that now. I am going to come back to the term later.

Dr. Khemani: Well, the companies are primarily in the business of providing trustee services. However, there is a provision allowed whereby a certain percentage of their assets can be in lines of activity such as commercial or consumer loans. And that ceiling in federal legislation has been put at 7 per cent, and so it is called a basket clause because it is not directly specified as to what that 7 per cent can be applied towards, within the activities of commercial and consumer loans.

Mr. Callahan: Does that mean that the trust company can loan money or invest in the trust that they are administering?

Dr. Khemani: No.

Mr. Callahan: Well, I do not understand that. You will have to go a little further.

Dr. Khemani: Well, historically speaking, the business of

commercial lending is the primary activity of banks, and the same with consumer loans. In 1967, when banks were allowed to get into the mortgage market, they liberalized the provisions for trust companies to get into some other non-trust-related activities, which is commercial lending and consumer loans.

The reason why the ceiling was put in has been debated. One reason has been advocated, that it could allow the trust companies to gain experience. Another was that the ceiling would minimize the conflict-of-interest kind of situations which you have just alluded to, which could potentially lead to solvency-related problems.

Miss Stephenson: Seven per cent of what?

Dr. Khemani: Total assets of that company.

Miss Stephenson: Total assets.

Mr. Callahan: So in essence what you are trying to do is to make certain that they--because their primary job is to look after, I suppose, estates or any other type of trust vehicle, you do not want them to be able to use those assets up in lending, and that is why the bank has a full range of 100 per cent, I guess. They can loan it out on various securities.

Dr. Khemani: Banks are not similarly constrained, that is true, but banks cannot engage in trust functions.

Mr. Callahan: But the 7 per cent, obviously, that they are allowed to lend does in fact eat at least to the extent of 7 per cent into the trust funds that they are holding.

Dr. Khemani: It does give rise to conflict-of-interest type situations, potentially, but that is what our point . . .

Mr. Callahan: But how are those people--the beneficiaries of that trust, how are they protected in the event that the trust company went belly-up? Would they in fact, on an overall basis, lose 7 per cent of the corpus of their trust?

Dr. Khemani: That is not a matter in our area of expertise.

Mr. Goldman: I think you would have to get . . .

Mr. Callahan: That is our problem.

Mr. Goldman: You would have to get some analysis on the effects of that situation.

Mr. Callahan: That is called putting it in the basket too.

Mr. Goldman: But it is only 7 per cent. The point being, however, that trust management combined with that kind of basket clause provision for commercial lending represents a potential

conflict of interest. And there are other such examples, like . . .

Mr. Foulds: How does the term arise? I am curious.

Miss Stephenson: It is all the range of loans that they make.

Dr. Khemani: Because within the trust company legislation there are very defined types of activities which companies can engage in, and the 7 per cent is not defined, so therefore it is treated as a basket.

Mr. Foulds: Okay.

Mr. Chairman: Mr. Bond has a question.

Mr. Bond: The 7 per cent, does that include ETA assets, total assets under administration, or just the trust company's assets?

Dr. Khemani: I do not know.

Mr. Bond: Okay.

Mr. Ashe: It makes quite a difference in the potential funds. I mean, if you have got a company, to use a figure, that is capitalized and has retained earnings of a billion dollars but they make four billion as a trustee and what have you, so--it is your understanding that it is 7 per cent of a billion, not 7 per cent of five billion?

Mr. Goldman: That is my understanding, but that would have to be checked. I cannot stand as an authority on that.

Miss Stephenson: I thought they were not allowed to use the assets of estates?

Mr. McFadden: Pension funds from estates are not included in assets . . .

Mr. Ashe: But I do not think--that is not saying that they are spending that money. David, I do not think that would suggest that they are using those funds. But it would give them more flexibility of having a bigger seven, if you will.

If they had, to use my illustration, if they had one and four, for a total five billion, if they could invest up to three hundred and fifty million of their billion--I appreciate it is then 35 per cent, but it may be still 7 of the total funds that they have available to them.

Mr. McFadden: We have some experts in the audience. I guess we could ask them.

Mr. Chairman: Perhaps we could ask Mr. Goldman to continue. I think we know what we are talking about now, and we can go on to ...

Mr. Goldman: Be it large or small, there is a potential for

conflict. That is not the only point that I wanted to convey as an example, but there are viable solutions, in my submission, other than blanket and strictly enforced functional separations, which are capable of addressing concerns about conflict-of-interest abuses in the financial services sector. And I do not intend to dwell very long, as I indicated at the outset, on this area of conflict of interest, because I really do want to turn to concentration in particular markets, which is within our particular interest.

But one such option, apart from a blanket and strictly enforced separation, is the use of the Chinese-wall procedure, with which I am sure you are familiar.

Miss Stephenson: That is in the glossary.

Mr. Goldman: I should have read the glossary in advance, to move it along!

There is ample evidence from the U.S. that Chinese-wall procedures are very effective in protecting the public interest without imposing excessive regulatory burdens on the day-to-day operations of financial institutions. And I think that allowing financial functions to safely commingle within the same institution in the manner I have described could be one way of effectively enhancing competition and promoting greater efficiency in the financial services sector, but offering the kind of protection that is otherwise warranted.

Ideally, questions concerning inter-pillar integration should be answered by having greater knowledge of the exact nature and probability of conflict-of-interest abuses and the efficiency gains that could result in further integration. And it is not possible to make unambiguous comparisons between the costs and benefits of alternate industry structures and regulatory frameworks.

As in the case with many public policy issues, judgmental factors will play an important role in the final outcome. In this regard, it is my view that regulators should, as a principle, strive to inject market forces as much as possible. This would insure administrative costs and regulatory burden on market participants is kept to the minimum. If, however, the inherent conflicts are believed to be insurmountable, then the onus should be for policy-makers to clearly demonstrate the nature and incidence of the problem in order to justify continued separation of functions.

On the issue of recent trends toward conglomeration involving concentrated ownership of financial institutions by non-financial entities, I am not quite as clear as to the most appropriate stance that one should adopt. This is a complex issue, and as evidenced in recent studies and financial sector policy review hearings, no easy solution does come to mind.

While implementation of a Bank Act model requiring widely held, dispersed ownership may be effective in preventing self-dealing

abuses arising from non-arm's-length transactions, it does eliminate one very important mechanism for ensuring that there is efficient operation of financial institutions, namely the market for corporate control.

The potential for change in shareholder control of a corporation may act as an effective incentive for efficient managerial behaviour and as a removal mechanism for inefficient management. On the other hand, allowing closely held financial institutions but implementing rigid bans on non-arm's-length transactions also entails costs because it prevents both beneficial and abusive transactions.

There are therefore two measures which are the subject of discussion in this regard, namely requiring wide ownership of financial institutions or imposing rigid bans on non-arm's-length transactions. Fundamentally, the issue rests on which of these measures is effective while at the same time entailing the least social cost. My initial impression is that both of these regulatory measures are rather extreme and that further work is required to explore workable alternatives. But that is not the focus of my attention today.

I will now, however, address what I have categorized as the second set of concerns, which is my primary interest, and these concerns have been associated with high levels of corporate concentration in particular financial markets, which may be coupled with anti-competitive practices by large firms in those given markets.

I would like to preface my remarks by first mentioning that various statistics have been cited in the business press regarding the degree of corporate concentration prevailing in the financial services sector and in the Canadian economy as a whole. At times, such statistics have been used, if indeed not misused, to bolster one or another viewpoint on the issues or concerns which I have delineated. It is not very fruitful at this stage of the discussions to find fault with the various measures that have been put forward or to point to deficiencies or non-availability of relevant data.

I think there does exist some consensus that in Canada, corporate concentration in the aggregate and in individual sectors and industries tends to be high. There is also likely to be some measure of agreement that concentration levels in the financial sector as a whole, if not in selected market segments, have been increasing and have importantly resulted from recent merger and acquisition activities of large firms.

In analyzing concentration, one should consider that it is the relative importance or role different institutions play as suppliers of specific products, rather than simply their aggregate size, which is initially relevant from a competition policy perspective. And I will be expanding on this theme throughout these remarks, but aggregate size per se is not the focal point of our concern.

Even comparisons of the relative share accounted by different financial institutions in specific financial markets, such as personal loans or residential mortgages, does not in itself give an accurate picture of competition in these markets. In addition to geographic dimensions within each class of financial services, markets will also be segmented by the size of borrowers and the size of loans.

Both demand- and supply-related factors must be evaluated in determining whether large firms are in a position to exercise economic power and to influence the degree of competition prevailing in a given market. On the demand side, one needs to examine such factors as the availability of substitute products. On the supply side, one needs to consider the actual potential number of market participants and barriers to entry.

Interaction among these and other factors may dramatically affect the nature of market power that is enjoyed by large incumbent firms. Generally speaking, concerns that concentration may result in abuse of market power are intensified in direct proportion to the height of the barriers to entry into a particular market. If entry barriers are low, then even firms in monopolistic industries may have to price near competitive levels and be dynamic and innovative, or else new suppliers will enter in to earn high profits or fill product and quality gaps.

In addition, if customers have easy access to alternate sources of supply, then even in the short run firms will have incentives to behave competitively in order to not lose their market share.

Mr. Foulds: Could you illustrate that, what you just said in theory, with some concrete examples in the financial world?

Mr. Goldman: Well, if you have two or three companies controlling a particular market--we will take the banking market as an example that may be appropriate here--and if there are great restrictions on threshold requirements or on ownership requirements, or any other regulatory matters that impede the ability of others to establish competing concerns within the properly defined geographical market, which may be Canada in this instance, there is not going to be the same kind of incentive to compete, and there is also going to be a much greater potential for abuse than if you open up and remove those barriers to the extent possible so as to force even those in what we call now a "dominant" position in the marketplace to take account over their shoulder of somebody else who may be coming in and establishing a competing concern. And that forces them to be competitive, it forces them to be efficient, and to do whatever they can to maintain their market share.

We are talking about barriers to entry, and I am going to expand on that shortly.

Mr. Foulds: Okay.

Mr. Goldman: These arguments apply to specific markets which are concentrated, regardless of whether the firms which supply particular financial services are large, single-industry or conglomerate affiliated firms. This is because the abuses which are often alleged to arise from conglomeration, such as reciprocal arrangements and mutual forbearance, are likely to occur only if there are barriers to entry which limit actual or potential competition.

Conglomerate firms with holdings which span different markets may indeed meet as buyers, as sellers, as suppliers and as competitors. But--and I suggest this is important--the profitability of co-ordinated or collusive action will at best be transient if they are constantly confronted with competitive pressures.

The process of entry plays an important role in maintaining competitive pressures in the marketplace. Entry into a particular market can occur in a number of ways. This will expand on your question, sir.

Incumbent financial institutions can expand into new geographic or product markets, or newly created firms may emerge to operate in particular markets. Also, firms operating in other sectors of the economy or in other countries may enter particular markets if opportunities exist. Such entry can take the form of a new investment or merger, or an acquisition of existing firms.

In this context, conglomerate merger activity may in some instances actually be a form of pro-competitive entry, if it results in the more efficient utilization of existing resources or introduction of new financial products and services. Thus, while observed measures of concentration in particular markets may be a useful starting point in examining the state of competition in those markets, it must be supplemented by other information on the characteristics of each market in question and the extent of potential competition in relation to that market.

Further, in instances where observed levels of concentration are high, they can often be examined by more in-depth analysis. And a relatively easy starting point in this regard is to identify if there are any regulatory barriers to entry. In the case of financial services, constraints on foreign ownership and entry, and separation of particular lines of businesses or the "pillars," as they are called, come to mind immediately as factors which serve to heighten market concentration and limit competition.

However, given regulatory concerns over system stability and its relation to institutional solvency, I do not view reasonable initial capital requirements or examination of the personal integrity of applicants as detrimental entry barriers. Rather, they may be considered reasonable as the basic conditions of doing business in those markets.

Other factors which could assist in explaining high observed levels of concentration in certain markets may include the scale of output at which the minimum efficient size of a firm occurs. If it occurs--that is, the scale of output--if it occurs at output levels large in relation to the size of the market, then only a few large firms would be expected to be in that industry. In such instances, high observed levels of concentration would not be an indicator of lack of competition, but rather the size of the market relative to efficient scale of production and operation.

Also, increases in concentration may in some cases reflect the pursuit of economies of scale. And similarly, evidence indicating that there are efficiency gains from multi-product production--which is sometimes called in the economic literature, and I do not know if this is in your glossary, "scope economies"--multi-product production of that nature--it is not in there? I can ask Dr. Khemani to explain it to you.

That concept of scope economies can explain current trends toward increased integration in the provision of financial services. For example--and this is one type of scope economy--the one-stop shopping for financial services. In economic terms, it is called a scope economy.

Mr. Callahan: A financial supermarket.

Mr. Goldman: Yes.

I would like to conclude this section of my presentation by pointing out that many of the concerns posed by high aggregate or overall concentration are in fact issues which stem from concentration in particular markets, and one should not lose sight of this. Except perhaps in terms of influence upon the socio-political process, most concerns about aggregate concentration and conglomeration arise when the firm in question has economic power in relation to a particular market, with the potential to abuse that power.

In other words, once again, it is not just size per se, but it is size coupled with the potential to abuse the economic power. In other words, the necessary condition which may give rise to anti-competitive practices alleged to result from concentration or conglomeration is the existence of market power, and it is power with respect to a particular market. And I want to emphasize, it is not market power per se that causes anti-competitive practices which harm the economy, but rather the abuse of that market power by those who may enjoy it.

And aside from outright fraud, which no regulatory framework can completely prevent, in my view the maintenance of competition in markets is a basic requirement for minimizing the occurrence of potential anti-competitive practices and limiting the potential for exercise of abusive economic power in those markets.

Now, Mr. Chairman, I have some other remarks relating to the new Competition Act, and I thought it may be helpful for your committee if I could discuss, under the general heading of "Instruments of Public Policy," the scope of the new legislation which was just brought down in June of this year, that does represent a very significant change in the way mergers and abuse situations are going to be handled at the federal level. And then I will try to bring it back, if I may, at the end. But I thought I would take some time now and review for you only those provisions that may bear on your review of the financial sector.

The new Competition Act does contain a number of provisions which, in my view, should be of importance in addressing the issues of concentration and conglomeration in our financial system. And I will outline several of those provisions in some detail.

I would stress that the Competition Act is a general law of general application, but it does have relevance to issues concerning the financial services sector because services, including financial services, are generally within the scope of the Competition Act. And there are a host of other provisions in the new legislation, and I will not touch on those; they would form the subject of a day's discussion.

The new merger provisions, in particular, now fall under civil law review. They used to be subject to only criminal proceedings, which required proof beyond a reasonable doubt, required proof that the merger lessened competition in a form that the courts had categorized as showing detriment to the public in fact. In other words, one had to prove beyond a reasonable doubt, under the Combines Investigation Act, that any proposed merger actually caused in fact detriment to the public. That was a very onerous test. It was a test, in fact, that did not see much success on the part of the Crown.

So after many years of study--it has actually taken close to 20 years to bring these changes about--since the Economic Council's report in 1969, we finally do have new legislation in Canada that should provide an effective framework for assessing merger activity, and again with respect to particular markets.

The statutory test that is now provided for is no longer one that requires proof on the criminal standard of beyond a reasonable doubt, nor is it applied in the context of a criminal court proceeding. Rather, it is a test that requires showing--that is, the Director showing, before the Competition Tribunal, which is newly established under the legislation, whether a merger substantially lessens competition. And in deciding whether competition would be lessened substantially, the newly established Competition Tribunal may have regard, in accordance with the legislation, to a non-exhaustive list of factors, such as: the extent of foreign competition in the market that is affected by the merger; and whether that foreign competition has acted as a sufficient discipline on the market; and whether the acquired party was about to fail; and the availability of substitutes; and barriers to entry into that particular market.

In addition--and this is important, I suggest, for your deliberations--the tribunal is not permitted to find that a merger substantially lessens competition solely on the basis of evidence of market share or concentration. That is specifically provided for in the new legislation.

The merger provisions also provide a specific defence in situations where gains in efficiency would outweigh and offset the anti-competitive effects, lessening of competition, that would derive from the merger. And there are specific provisions in there that attempt to define what these gains in efficiency are, but you should appreciate that it is not enough simply to look at the market share in Canada and say that these entities occupy X per cent and therefore it must be bad.

The legislation has gone well beyond that. It has taken a much more sophisticated analysis of mergers and concentration, and it requires the new Competition Tribunal to assess any such merger in terms of specific statutory factors, and a specific provision which provides an affirmative defence for gains in efficiency that may outweigh the anti-competitive effects.

Mr. Mackenzie: Does market size then not have any bearing on the decision at all?

Mr. Goldman: No, no. I do not want to leave you with that impression at all. Market size is certainly an important factor that will be looked at and cannot be ignored, realistically, but it is not the only factor and the tribunal cannot make a decision based solely on market size. It has to look at each of the factors that are listed in Section 65 and it also has to look at the issues raised, at gains in efficiency and at other of the statutory terms.

And that is largely similar, but not exactly the same, as the approach that those in the United States have taken. I am not suggesting that our law will evolve on the same terms or principles, but the general drift of the United States law, which has had far more experience in assessing merger activity and concentration, is now to move beyond an assessment of the merger based almost essentially on market share ratios. They have the Herfindahl Index there that has been applied in recent years, and the U.S. authorities are moving away from that kind of strict analysis.

There are also provisions in the new law that allow parties to apply to the Director for an advance-ruling certificate. And this is brand new. If the certificate is granted, it binds the Director not to apply to the tribunal for an order prohibiting the merger. There are specific provisions exempting joint ventures, and it is a completely different approach to the evaluation of potentially anti-competitive merger transactions.

Mr. Foulds: Can I ask you a question?

Mr. Goldman: Yes.

Mr. Foulds: How do you predict whether or not a merger is going to have, in the future, an anti-competitive element to it?

Mr. Goldman: Well, yes. The evaluation--coming back up for a moment--can proceed both in the case of a proposed merger, where the test is whether it is likely to lessen competition substantially, and in the case of the completed merger. So we are not restricted to just proposed mergers.

But coming to proposed mergers, there is a process that will require reviewing what the present state of the market is, and that necessitates defining the relevant market in terms of geographic considerations and product considerations. And having done that, the tribunal, I suggest--and this will ultimately be for the Competition Tribunal to decide because they will be setting the law in Canada, not me--they will have to assess whether the proposed takeover or merger of this matter before them is likely to substantially lessen competition in that properly-defined market. And in reaching that assessment, they have got to go through each of the factors: they have got to look at efficiency and they have got to look at, I suggest, economic and historical data, and basically make a judgment call as to whether or not that competition is likely to be substantially lessened.

We have not had the opportunity to effectively engage in that kind of analysis in Canada because of the deficiencies in the past merger law. That is gone now. They have been able to do it, to some extent successfully in the United States, and hopefully will be able to accomplish the same ends in Canada in appropriate cases. But it has been done. It is not without precedent. It is a complex set of issues.

Mr. Foulds: Yes, and what you can never take into account is whether two mergers over here that occur in 1986 might result in another merger in 1989.

Mr. Goldman: But each merger can be the subject of an additional review proceeding by my office. One is not given clearance for all mergers if they apply for an advance-ruling certificate . . .

Mr. Foulds: Will the standards in 1989 be the same standards that you are applying in 1986?

Mr. Goldman: I do not know if I can answer that. It is a difficult question.

Mr. Foulds: Right. Yes.

Mr. Mackenzie: Is it also a judgment call, if you will forgive me, in terms of one of the factors being an increased productivity or an increased efficiency? How can you totally measure that in a merger situation?

Mr. Goldman: Well, that is a matter that the tribunal is going to have to assess. In Canada, we have a statutory provision that requires gains in efficiency to be considered in accordance with the statute. The United States' gains in efficiency only occupy one of the merger guideline provisions. They do not have the same statutory force, and they are reviewed by the Anti-Trust Division of the Department of Justice in some detail in the course of negotiations in deciding whether they will take the case on, whether they will proceed with a contested hearing or whether they will not.

It is a very difficult process, without question, but it is one that Parliament has mandated in the legislation that we shall engage in. And I just cannot answer that in a few short words.

You have to look at every single case individually. You have to look at the state of the market that has existed in that particular case, after you properly define the market. And I can tell you that there are often great battles in properly defining what the relevant market is. And then you proceed from there into an assessment, with economic and industrial organization evidence, as to what the likely effect of that merger is going to be.

Miss Stephenson: Where have you found this collection of Solomons . . .

Mr. Goldman: This collection of Solomons?

Miss Stephenson: . . .who are going to be functioning as members of the tribunal? I do not want names. Are they internal, external, a mixture, or . . .

Mr. Goldman: Okay. Let me answer that in the same fashion that I have done. I am not involved in the matter of appointments to the tribunal, ever since the--I cannot be involved because of the separation of functions. We are the investigative arm and the tribunal is the adjudicative arm.

Mr. Callahan: It would be done in a non-patronage way, I would think?

Mr. Goldman: Pardon me?

Mr. Callahan: It would be done in a non-patronage way?

Mr. Goldman: Well, I would hope so. I would hope so. We are hoping that we get the best people for the job.

Now, four judges have been appointed. Perhaps I should back up . . .

Miss Stephenson: And it is in fact the judiciary . . .

Mr. Goldman: No. Let me explain this, because those are good questions.

The Competition Tribunal--I was maybe moving a little too fast through the legislation. But a newly-established Competition Tribunal is also a unique institution. It is a hybrid institution, and by that I mean it will consist of four judges of the Federal Court Trial Division. They have been appointed, and the Chairman is Madame Justice Barbara Reed. And it will consist of up to eight lay members, as they are called. They are non-judicial members, and they will be drawn from various fields: the economic field, the academic field, the business field and other such fields.

Now, because Parliament recognized how difficult a job this is going to be in properly assessing merger activities, not only was it ultimately resolved that it should be done by a mixed panel because there have to be both judicial and lay people on each panel, but also, before the Minister of Consumer and Corporate Affairs goes ahead with recommendations as to appointments, there is a provision in the new legislation for a consultation group or an advisory group to be set up to find the best people for the task.

So it is being taken quite seriously because it is such a difficult role to fill, but we intend to do what we can in terms of assessing merger activity, and hopefully the tribunal will have the proper manpower to make the appropriate judgment calls.

Mr. Callahan: Just a supplementary, if I could, on that. Are you moving close--and I think it is particularly critical in this tribunal that this initial group will almost be set up along the lines of the U.S., where you have confirmatory hearings on whether those people should sit or should not sit. Because it seems to me that this type of an activity can have a tremendous impact if the person has any type of conflict.

Miss Stephenson: Yes. Is that the procedure to be pursued? I do not think that is what he is suggesting.

Mr. Goldman: I cannot go into the procedures for appointment of the tribunal, other than to tell you what is in the legislation, because it is not my province. Again, that is a separate matter which the federal government is addressing now under the provisions of the Competition Tribunal Act. And you are welcome to read that legislation. It does provide for a very careful appointment process.

Mr. Callahan: Will this new procedure eliminate the Combines Investigation Act?

Mr. Goldman: Oh, well, let me start at square one. The Combines Investigation Act was replaced on June 19th of this year. It no longer exists; it is gone. There is now the Competition Act. We provided a copy of it to the clerk of the Committee and we will be happy to make copies of it available to you, as well as the Competition Tribunal Act.

There are two statutes that were brought in in Bill C-91. They were brought in in June of this year. And the Competition Tribunal Act sets up this new tribunal, the hybrid tribunal that provides for judges presiding but also for lay people to sit on these panels. The Competition Act replaces the Combines Investigation Act. And we now have a much more detailed statutes in certain respects. There are a host of amendments, as I tried to indicate at the outset, that were brought in.

The name of the statute was changed. Many of the same provisions continue to exist, such as most of the criminal offence provisions, as they were in the Combines Investigation Act. But there are new provisions . . .

Mr. Mackenzie: Oh, they are still there?

Mr. Goldman: Pardon me?

Mr. Mackenzie: They are still there?

Mr. Goldman: Yes, definitely. The criminal offence provisions are there and in fact, in some instances, particularly with respect to conspiracy, they have been bolstered. There are ambiguities that have been removed in terms of the intention requirement, the *mens rea* requirement, as it is called. By way of one example, the fine for conspiracy under the Act has been increased from \$1 million per count to \$10 million per count; not a trivial sum. And there are other such amendments.

But the bulk and the focus of most of the attention was on bringing in new provisions in the merger field and in terms of examining abuse of dominant position to replace the old criminal monopoly provision. It is now called "abuse of dominant position," and that is another area that I was going to get into.

Mr. Callahan: So you now have an act which combines a sort of civil approach with the balance of probabilities, as opposed to the reasonable doubt, but you also have--within the criminal provisions of that act, the onus would still be beyond a reasonable doubt?

Mr. Goldman: Yes. Let me put it in this perspective, because it is an act that now has two distinct tracks or avenues in it.

Those tracks that follow from an inquiry by my office are either if a matter that we have inquired into gives rise to a criminal offence--if in our view it gives rise to a criminal offence, it is sent over to the Attorney General of Canada for the Attorney General's pleasure and prosecution. In other words, it goes down the criminal route. And that is conspiracy, resale, price maintenance.

You have seen the recent conviction, for example, of Sunoco on resale price maintenance and misleading advertising. There are a host of other criminal offences that continue to exist. None of them were removed in the new Competition Act. And that is one avenue or

track.

The second avenue or track is the civil side, and that includes--that is a procedure that follows again from an inquiry, on the part of the Director in most instances, unless we are taking preëemptive action with respect to a proposed merger, but we would proceed before the Competition Tribunal for what is generally considered an administrative law type of hearing. The standard of proof is balance of probabilities.

The tribunal is in the process, as I understand it, of examining what rules it is going to hand down for regulating the procedure before the tribunal, but the tribunal has broad injunctive powers. They do not have powers to award damages, but they have injunctive powers to deal with a host of situations that include the ones that used to be in the Combines Investigation Act, what were called "reviewable practices."

There are market restrictions, which are restrictions on territorial distribution, exclusive dealing and tied selling. Those are still there, they are before the tribunal. Then, in addition, the tribunal has exclusive jurisdiction over the review of merger activity, and I was in the course of discussing that.

In addition, the tribunal has jurisdiction over abuse of dominant position, which replaces the former criminal monopoly provisions. The tribunal has jurisdiction over something called "specialization agreements," which are brand new, that allow parties to apply to the tribunal for an order clearing certain agreements that might otherwise give rise to a conspiracy offence, with the basic premise being that if they can show sufficient gains in efficiency where one gives up producing a product and the other one gives up producing it, and they go in it together on a joint venture basis, it might get clearance before the tribunal.

And there are a range of matters that will be governed by this tribunal. Only the Director has access to the tribunal, except in the case of specialization agreements. That was a much-debated matter before Parliament. Private persons, however, do have the statutory right to apply to intervene in any proceeding brought before the tribunal by my office.

Mr. Callahan: Is there a sort of pre-clearing--in other words, before you get to the tribunal stage, is there a way, just as you can get an advance tax ruling on a corporate procedure from Revenue Canada, can you get an advance ruling from you which might not require the matter to go before the tribunal?

Mr. Goldman: Yes, and I may have been going a little too fast in the interest of time. Let me explain that.

Mr. Chairman: You will have to excuse our interjections, but we--the provinces did not get all the news. I think we were too busy fighting doctors in June. But whatever it was, a lot of this is news to

US.

Mr. Callahan: We were not fighting doctors, we were discussing the issues with the doctors, is what we were doing.

Miss Stephenson: If that was not fighting, God knows what we are going to get into next!

Mr. Goldman: I am quite pleased to explain this new legislation to you. We have been spending a good deal of time at conferences and seminars taking these sorts of questions for days at a time.

Mr. Chairman: I appreciate your patience.

Mr. Goldman: I am quite happy to answer any questions relating to it because I think that the new legislation does bear, to a significant extent, on some of the aspects of your deliberations.

There is a procedure now that is in addition to the program of compliance that I was going to just mention, and I will come back to that. There is a statutory procedure under Section 74 of the new legislation--and we will provide copies of the office consolidation to you; it has just come up recently. There is a procedure which allows parties to apply to the Director for what is called an advance-ruling certificate, with respect to a proposed merger.

It is the first time in the history of competition legislation in Canada that there has been a statutory provision that allows for this kind of certainty, because if the advance-ruling certificate is given it does effectively bind the Director not to proceed before the Competition Tribunal, provided that the conditions of Section 75 of the act are met, which require substantial completion within one year of the handing down of the certificate.

So parties do have the option of gaining certainty if they are prepared to come in in advance and seek such a certificate, and in so doing they would have to persuade us that there are not grounds upon which we would proceed to the Competition Tribunal for an order with respect to that merger. And in some cases, it will be a relatively easy task if no competition issue is raised with respect to the particular market.

In other cases, it may be a difficult task and a difficult process of negotiations. They are done in confidence, because there are confidentiality and privacy provisions in the statute, and of course when you are dealing with proposed merger transactions that kind of security and confidentiality is necessary so that the market is not disturbed.

There are also specific provisions in the new legislation that govern consent orders, and that is brand new. The Competition Tribunal is authorized now specifically to issue a consent order which would follow from negotiations not just with respect to

proposed mergers or any other merger activity, but also any other matter that may be brought before the Competition Tribunal. Those would be orders that would be made on the recommendation of the private persons affected, in my office, to the tribunal. The tribunal has ultimate authority, of course, but they can grant such consent orders.

So all of this does lead to a much greater consultative process than existed before with the Director's office in respect of proposed mergers and other reviewable matters before the Competition Tribunal.

Mr. Callahan: Just one final question, if I could. In the event that a predetermination is made by your office or in the event that there is a consent order or in the event that there is an order made by the tribunal in finality on a merger and the merger takes place, and you have made your best judgment you can make on the basis of whether it is in line with the act or contravening the act, what happens if after the merger actually becomes a merger in fact, the climate changes and you in fact have made the wrong decision? Is there any mechanism for, other than--outside of the criminal sections, to take back the merger, as it were?

Mr. Goldman: No. If they have been given an advance-ruling certificate and they proceed on the basis of that certificate, they are not subject to challenge, provided it is completed on the same facts that were made available to us. If they shift any of the premises or fundamental facts that come in to us, then there is an opportunity for challenge.

The order, though, of the tribunal can be varied. There is a provision for variation of an order of the tribunal. But largely, people that are successful in having these matters resolved by advance-ruling certificates or consent orders will be able to proceed uncontested. That is the purpose of it.

Mr. Callahan: I am just thinking that in any human activity there is always the possibility that the judgment call you make may be wrong, and it may be not necessarily clear at the time that the merger is presented in any one of those three fashions, but after the fact. Particularly on that area about the productivity--I cannot find it, but that is a factual situation, and the facts may change. Now, are you saying to me that once the certificate of compliance has been given or once they have gotten the go-ahead from any one of those three procedures, there is no way of re-reviewing what . . .

Mr. Goldman: There is--I tried to explain--in the case of an advance-ruling certificate, if they go ahead not on the same basis upon which the certificate was issued, that is one contingency.

On the other side of it, there is a specific provision--I was just giving the section number, Section 78--that provides that the tribunal may vary its order if the circumstances that led to the making of the order have changed and in the circumstances that exist

at the time of the subsequent application, the earlier order would not have been made.

So there is a protection in there with respect to orders made by the tribunal.

Mr. Callahan: So there is in fact a review that can take place, I gather, at any time after that, if facts come to the attention of the tribunal, by whatever method, to determine whether or not the merger has been properly judged?

Mr. Goldman: No.

Miss Stephenson: No subsequent tribunal has the right to judge the decision of a previous one?

Mr. Goldman: No, there is a provision that enables the tribunal to make an order that rescinds its earlier order under Section 78.

Mr. Callahan: And there is no time limit on when that can be done?

Mr. Goldman: No time limit on that.

Mr. Callahan: So there is in fact a review, as Dr. Stephenson had said . . .

Mr. Goldman: Yes.

Mr. Callahan: . . . that if the facts--if you have made a bad call--I always feel it is like the umpire, you know, that maybe you can reverse the call if you have made it in your best . . .

Mr. Hennessy: An umpire never reverses a call.

Mr. Foulds: Only on the National Football League these days!

Mr. Callahan: Okay, that is fine. That is what I was interested in.

Miss Stephenson: Could you clarify for me . . .

Mr. Chairman: We are going into another topic now. I wonder if you want to finish what you have to say, because we are running over. I am not concerned about that so much as that you may have other things that we would never get to.

Mr. Goldman: I do, actually. And we will just verify that last point, but there is a review procedure under Section 78.

There are specific provisions in the new legislation that bear on the financial market generally. I do not want to leave you with the impression that the review of mergers applies to all aspects

of the financial market. And in particular, there is Section 66(b), which specifically exempts the tribunal from making an order under the merger provisions in respect of a bank amalgamation under Section 255 of the Bank Act, or an acquisition by a bank of assets under Section 273 of the Bank Act, where the Minister of Finance certifies to the Director that the merger is desirable in the interests of the financial system.

So if there is any such certification by the Federal Minister of Finance, then the matter cannot proceed before the Competition Tribunal under the merger provisions. But if there is no such certification, bank mergers are reviewable. And the review authority for bank mergers and agreements has been now brought into the Competition Act. The Inspector General of Banks no longer has that authority; it is now a matter within the ambit of the new Competition Act.

There is also some question as to whether the merger provisions of the Competition Act would apply to amalgamations of provincially-incorporated financial institutions which have been sanctioned by the Lieutenant Governor in Council. This is an open question at the present time.

Miss Stephenson: That is the question that I have been trying to ask.

Mr. Goldman: Oh, well, then I am going to elaborate on that because that is a very real question at the present time. And if you will bear with me, I will try to explain what the factors are in that regard.

Part of the past case law under the Combines Investigation Act included a doctrine which was known as the regulated conduct defence, and that is a conduct-specific defence which negates the application of the act in respect of those activities which are subject to effective regulation under validly enacted federal or provincial statutes.

There is now an interesting issue which is raised by the enactment of the new civil merger provisions which are adjudicated upon by the Competition Tribunal. The new issue arises because the fundamental premise and jurisprudence on the regulated conduct defence was derived from the prosecution of criminal offences. The question that now exists is whether it can be assumed that that doctrine will continue to apply in the same fashion to matters that are reviewable under a new civil law standard. And we now have in place, in the form of the Competition Tribunal, a national regulatory body that is not applying criminal law and which will be adjudicating whether in certain instances mergers ought to proceed, and if so, on what terms. That is completely different than the earlier law, which examined whether there was a criminal offence that was taking place and conduct detrimental to the public.

There is now, in light of this new enactment, the

possibility for competing regulatory decisions. In other words, if the provisions of the Competition Act are seen as an exercise of Parliament's power over trade and commerce in the form of a national regulatory body, it might not prove as difficult for the courts to conclude that Parliament may have intended, in legislating for the general regulation of trade affecting the whole Dominion, which is the trade and commerce power, to prohibit some aspects of conduct which a provincial authority could otherwise permit. And there is no case directly on point in the precedent. It is a new issue and it is a complex issue which may or may not become the focal point of judicial attention at some future time.

But if it is determined ultimately in favour of the competition legislation, it may result in all mergers being the subject of review under the Competition Act, except for those that are specifically certified as exempt by the Minister of Finance.

I thought I would just point that out to you. It is a very interesting question that may be resolved in the near future.

Mr. Chairman: You have, I think, some Supreme Court decisions about five or six years ago that suggest that if you are looking at a particular industry which is a provincial industry, you cannot do that. Just changing the act does not necessarily give the federal government the power.

Mr. Callahan: It goes back to the old question of the mortmain licence. It is a jurisdictional question, I would think.

Mr. Goldman: Let me come back to that point because what you are referring to is, I think, the Jabour case, which was the decision of the Supreme Court of Canada a few years ago that said that the competition law--at that time it was the Combines Investigation Act--did not apply for purposes of proceeding with a conspiracy case against debentures of the Law Society of British Columbia because they were exercising their authority under a valid provincial statute, and the regulated conduct defence exempted that from the application of the general law under the Combines Investigation Act.

There are two issues that follow from that case, which is why I raise them now before you, so you should be aware of them.

First of all, there are many writers who have taken the position that that case, the Jabour case, was a relatively unique one that was looking at particular facts before the court, namely whether the conspiracy section could be invoked to bring before the court the actual governors, those doing the regulating function, as opposed to an industry situation where you have before the court those entities or persons who are the subject of regulations. So it may be a rather unique case in that regard.

And secondly, even as Mr. Justice Estey pointed out in that decision when he gave the reasons for the court, the focal point of the

regulated conduct defence that he discussed was the question of criminal conduct and whether that which is specifically mandated by a valid provincial regulator could ever be viewed as being criminal. And the point that arises is a situation where you have a national regulatory body not applying criminal law but making a determination on a trade and commerce basis: a decision that might in fact be in conflict with a decision properly made by a validly constituted provincial body. And that is the only point that I wanted to raise. It is an area of question.

There is a provision in the legislation--to come back to the earlier question about review of mergers, there is no authority to review a merger more than three years after it has been substantially completed. That is in Section 69 of the act. There is a three-year limitation.

So I think it is fair to say that three years after that merger is over, nothing can be done about it.

Mr. Callahan: Well, that raises an interesting question. I suppose there has to be finality for any person to get on with their affairs. But it was raised by Mr. Mackenzie, I think, or Mr. Foulds perhaps, that surely if we reflect back on the state of the economy and the way business is done over just the last five years, we would see that there will be dramatic changes, and in fact if there is no opportunity to review even outside the three-year period you could wind up with a merger that was granted, took effect, and has a detrimental effect on the operation of the business community as a whole.

Mr. Goldman: Well, all I can point to is the decision that Parliament has taken to put a three-year limitation on the right to go back and review a merger. And I think it is fair to speculate that in most instances the mergers will be reviewed in and about the time that the merger takes place. But it was decided that a three-year limitation was the way Parliament wanted to go on these matters. That is within the legislation.

There are also--if I may just complete this summary of the new legislation--there are merger pre-notification provisions, which are brand new. They have not been proclaimed in force as of yet. There are regulations that are being drafted to accompany those provisions, and they will require pre-notification to the Director of certain very large merger proposals, with a compulsory waiting period of up to 21 days before the proposal may go forward. That is after all of the material has been filed.

Those pre-notification requirements are in part 8 of the act, and as I said, they apply to large transactions such as ones where the parties must have total assets or annual revenues in or from Canada of over \$400 million, and a second-transaction threshold of \$35 million with respect to the particular assets of the entity involved.

These are, again, very detailed, and I simply want to refer

you to them. We would expect the pre-notification provisions to be brought in some time in the early part of 1987.

- But the merger review provisions should not be confused with that. They are in force today. And simply because entities do not have to pre-notify the Director's office of certain transactions that they would otherwise have to notify us of once the pre-notification provisions are in, it does not mean that a merger review is not taking place.

There are specific classes of acquisitions which are exempt from pre-notification, and among those are acquisitions of voting shares solely for the purposes of underwriting the shares. And I propose to discuss these in some detail in the written paper, and I think you will have that before you.

I have talked about the abuse-of-dominant-position provision, and I would just refer you to Section 50 of that set of provisions because some of the anti-competitive acts that can form the basis for an application under the abuse provision to the tribunal may have some particular relevance to the financial sector. And you will see that when you review Section 50.

I have mentioned for you that the conspiracy section has been bolstered. There are specific exemptions from the conspiracy section, and particularly arrangements among security dealers. There is also a specific exception now with respect to agreements among the banks. They are done under a separate section, a new section, which makes banking agreements on certain terms illegal per se, and they are all set out in new Section 33. Again, there is a provision that allows the Minister of Finance to certify that the arrangement should go forward for the purpose of financial policy. So that that can take it out of Section 33, which is an agreement provision for purposes of banking agreements.

You should also know that the new Competition Act now encompasses Crown corporations, and that is a major change. It encompasses both federal and provincial Crown corporations in its ambit, to the extent that they engage in commercial activities in competition with other persons. And that followed the Eldorado decision of the Supreme Court of Canada, where the court did recognize the inherent unfairness of not bringing Crown corporations under the same provisions as others with whom they compete.

I will skip over the discussion I had planned for tied selling and market restriction, but let me just tell you that there is also a program of compliance. It does not have specific statutory provisions governing it in the legislation, but it is a program that provides for voluntary education and the handing down of opinions as to whether the act would apply to certain proposed situations. And that has been in existence for a good number of years, and we do make efforts to assist members of the business community to avoid coming into conflict with the act.

Those are not binding opinions; they do not have the same legal force as an advance-ruling certificate, but they are available with respect to all sections of the legislation. Advance-ruling certificates are only available with respect to the merger provisions.

I am going to try to wrap up in just a few pages. I am going to proceed to discuss certain matters relating to the issues of general regulatory control, and I will just leave the Competition Act for a moment.

Strong competition legislation is not the only policy tool at our disposal to address concerns about concentration and conglomeration in the financial services sector. A relaxation of the existing regulatory policies which limit inter-pillar competition would also mitigate against increased concentration and potential abuses by incumbent firms. In this regard, I would mention that the freedom for new firms to enter into an industry is certainly an effective way of ensuring a healthy competitive environment, and of increasing economic efficiency and of discouraging abusive behaviour in our financial services market.

There are two general groups of financial regulations which, in my view, have the effect of impeding entry and restricting the degree of competition in the financial services sector. These are the restrictions on the business powers of Canadian financial institutions, which serve to narrow the line of business of individual firms, and foreign ownership restrictions which limit participation of these firms in our financial services market.

Currently, both the federal and provincial statutes and regulations which govern the business activities of a wide range of financial institutions contain restrictions which serve to limit the types and amounts of financial services they can provide. The business activities of trust, mortgage, loan and insurance companies, to name a few, are prescribed in this manner by the governing statutes.

These companies are thus quite limited in their ability to offer financial services which are not explicitly set out in the provisions which define their business powers. A prime example would be the statutory limitations on the amount of commercial and consumer loans that trust and loan companies are allowed to make. And currently, these loans must not be made through the so-called--famous words now--basket clause, and cannot exceed 7 per cent of the lender's capital and guaranteed funds.

On this point, I must hasten to add that I am pleased to see that the recent proposals to amend the Ontario Trust and Loan Corporations Act would allow institutions greater flexibility by expanding the scope for consumer and commercial lending. Life insurance companies face other restrictions: they are unable to offer financial services to customers for the purchase of their own insurance annuities, nor can they act as agents for the sale or redemption of government securities.

I have mentioned these examples in order to illustrate the kind of regulatory restrictions which I believe could serve to limit participation in a number of important financial services markets.

In my view, the easing of these constraints would promote a more efficient and responsive industry and assist in assuring we have a healthy, competitive environment.

The foreign ownership restrictions that apply to most financial institutions also represent a significant barrier to increased competition and entry in this sector. It is no secret that financial markets are becoming increasingly international in both nature and scope. I think it would be unwise to insulate ourselves from increased global competition, and I believe it would become increasingly apparent that regulatory barriers which restrict capital movement into Canada can only be maintained at a cost to the users and suppliers of financial services in this country. Again, I welcome another initiative being taken by the Ontario government which would ease the restrictions on the participation of foreign firms in the securities market.

I would like to conclude my presentation this afternoon by reiterating that corporate concentration is a multi-dimensional and complex phenomenon. I believe that many of the concerns associated with high levels of corporate concentration can be traced back to the extent to which competition prevails in given markets. High levels of corporate concentration may be a matter of major concern when markets are not contestable; that is, when incumbent firms are entrenched in their respective markets and are insulated from the competitive process by regulatory and structural factors.

In such situations public policy should, in my view, strive to ensure that an open, flexible and dynamic market environment prevails. This objective can, in part, be pursued by the application of specific provisions of the new Competition Act, which I have described.

The Competition Act clearly has the potential to be an effective policy instrument to be used in addressing issues of concentration and anti-competitive practices in a given market, or other abuses that can stem from market power. Of particular importance is the fact that the provisions dealing with mergers and abuse of dominant position are no longer part of the criminal law. This considerably eases the task of the Director in addressing those matters before the new Competition Tribunal.

The earlier act has been replaced now with an approach that focuses on an assessment of the overall impact of business practices on efficiency in our markets, and one which relies on a balancing of a number of economic factors. The merger and abuse provisions, in particular, reflect a balancing of anti-competitive effects against arguments of superior economic efficiency. The act provides that this approach is to be more than a mechanistic one because, under the

merger provisions in particular, factors other than strictly market share or concentration must be considered in making the ultimate assessment.

The Competition Act is framework legislation that sets the rules of the game for businesses in the marketplace, with a view to encouraging maximum efficiency in our markets. The act is a product of years of study, consultation and review, and I suggest it may be a model that you may want to consider.

Now, there is also another way that the overall objective of a dynamic market can be facilitated, and that is by regulatory policy in relation to financial markets aiming towards facilitating entry, growth and diversification of different financial institutions in order to enhance competition. And to the extent that there are high levels of corporate concentration in financial markets, they should, in my view, be justified only on the basis of economic efficiency.

I would conclude by saying that the failure to maintain an effective competitive environment in financial markets could lead to concentration that may result in leading firms abusing their dominant market positions.

And finally, I would also like to say that we in the Bureau would be pleased, should you so desire, to be of any further assistance to you in your review of these very real and complex issues. Thank you very much.

Mr. Chairman: Thank you very much. It has been, obviously, a learning experience for us, and it still is. And I hope we can continue to learn from your obvious knowledge.

Mr. McFadden has a question.

Mr. McFadden: Thank you, Mr. Chairman.

It took, I guess, the Government of Canada some 20 years to get to this point and, I know, months and months of study when the bill finally appeared before Parliament. I gather you are still working on rules and regulations. I must admit, it is sort of hard for us to take in all of what you said in a matter of an hour or two here.

I do not know, Mr. Chairman--our guest here was reading from a text, and I noticed you made a lot of revisions and amendments. I just wondered if it would be possible in the next few days to get a copy of it.

Mr. Chairman: Next week we will have a full text.

Mr. Goldman: We will be doing that.

Mr. Chairman: The revisions will all be melded in, and we will never know where he changed it.

Mr. McFadden: We will never notice the difference.

I would like to just raise a couple of matters in relation to the current situation in the financial services area of the economy. Our Ministry of Consumer and Commercial Relations was here talking about the financial--has that department actually been created yet? I think it is . . .

Miss Stephenson: Not by legislation.

Mr. McFadden: Well, we have now a Ministry of Financial Institutions that does not legally exist, but is in the phone book.

Mr. Foulds: They passed an Order-in-Council.

Mr. McFadden: The Order-in-Council--so the Deputy Minister was in fact here, of this Ministry, and one of the things that they highlighted in their presentation, and other people have talked about it, was that the most important thing from the regulator's point of view is to ensure the financial integrity of the institutions operating within the system; not to enhance competition, but to enhance financial integrity.

It has struck me, based on what you said today, that you could very well wind up with conflicting things developing here. On the one hand, the provincial government--and the federal government, for that matter--could be pushing financial integrity, which could in fact end up creating standards of entry; but also in terms of future involvements between companies, mergers and acquisitions, that would be aimed at enhancing financial integrity. And that could be the thrust of provincial policy. The thrust of federal policy under the Competition Act could be going the reverse, based upon the idea that we need more competition; there would be all kinds of barriers.

I am just curious to know, from your point of view, firstly if you have had discussions with--that you are aware of, anyway--with provincial authorities on how this potential conflict could be resolved. And secondly, I wonder if you could comment, in terms of the current structure of the trust company industry in particular, on whether in fact you believe we have today an unhealthy level of concentration of ownership or whether that concern is really something for the future and in fact financial integrity is something that is of more overriding importance now than concentration of ownership.

Mr. Goldman: Well, I am suggesting today that the two, that is, financial integrity and solvency concerns on the one hand and the desire to ensure a healthy competitive environment on the other, are not mutually exclusive. And one of the main thrusts which I hope is now clear, at least from my perspective, is that they should not be considered so.

The same kind of balancing approach that the new legislation ultimately arrived at in terms of assessing a proposed

merger--not using the same factors, but that kind of a detailed analysis is, in my view, the way that these kinds of complex economic issues ought to be approached. And it may be possible to impose the minimal amount of restraints to ensure financial integrity exists, while at the same time taking cognizance of the need to maintain a healthy competitive environment. And one example that I have given is the ease of entry to firms that are already in one of the other pillars or foreign firms into the marketplace, that may meet the requirements of financial integrity that you may establish, but at the same time will foster competition in the marketplace. They are not mutually exclusive.

The question that you asked as well pertained to the extent of competition existing in Canadian financial markets, and I think it is fair to say that competition in those markets has improved in recent years. Relaxing some of the inter-pillar barriers has led to increased competition, and so has the recent easing of restrictions on foreign bank entry.

While I would not say that financial services markets are presently uncompetitive, I believe that proposals designed to facilitate entry would be beneficial. And I recognize that--I believe it was in the Dey Report that much of this same premise was canvassed by the authors of that report: the need to ensure that there is a healthy competitive environment, at least in the securities industry. And I would take that one step further and apply it to each of the four pillars.

So I hope that answers some of what you are asking. If it does not, please let me know.

Mr. McFadden: I guess I am trying to get at--I do not want to put any words in your mouth. What I am curious to know is your branch's or department's feeling, or the tribunal's feeling--I am not exactly sure how I should describe you.

Mr. Goldman: I am not part of the tribunal. Let me make this clear. I am the holder of a statutory office, the office of the Director of Investigation and Research, and the Director heads the Bureau of Competition Policy. It is the investigative and administrative arm under the competition legislation, under the Competition Act.

The adjudicative arm, the strictly adjudicative arm, since the Supreme Court handed down its decision on the Southam and Hunter case, is now the Competition Tribunal, just established this year. It does nothing but adjudicate. It is completely separate from my office.

Mr. Chairman: You are the policeman.

Mr. Goldman: The law enforcement office, yes.

Mr. McFadden: So maybe I can ask you, is it your arm's view that we have today in the financial services sector a competitive

environment that you would describe as healthy?

Witnesses have told us different things, and I am just curious, as an overview--I am not asking you to be specific, but is it your view that we have a basically healthy competitive environment today, and that we as legislators can at least feel that there is healthy competition now existing? Or should we as legislators be worried that there either is an unhealthy situation or a developing unhealthy situation in terms of competition in the financial services market?

Mr. Goldman: If I may, I am going to ask Dr. Khemani to expand on this because it is a subject matter of some discussion even within the bureau, but I think he can put it in much more expansive terms than some others of us.

Dr. Khemani: Thank you, Cal. As the submission that we were making tries to indicate, judging the state of competition in any given market is a complex task. You have to take into account a wide range of factors.

I do not think the issue really is whether the existing state of competition in Canadian financial markets is adequate or inadequate. We have been seeing signs of increasing competition because of the entry of foreign banks, as well as the integration of financial institutions and diversification out of the traditional lines of activity.

What we are addressing is that there are still measures out there which can enhance competition in financial services, and what we must question is whether the measures that we have invoked by regulation or other policies that impede the growth, diversification of institutions, is there a valid rationale for it. If there is not a valid rationale, then why must we try to limit competition?

So the question really is not that, do we have markets that are serving us well. I think that there are markets that are serving us well, but they can serve us even better, and we should design policies that go in that direction.

Mr. McFadden: And by "better," just to be sure I understand what you mean by "better," you are saying that better would be a financial services market in which there is competition across the whole range so the consumer can get what would hopefully be a better product at a better price?

Mr. Goldman: Exactly. That is part of it.

Dr. Khemani: That, as well as choice.

Mr. McFadden: And a range of choices.

Dr. Khemani: Because--let us take the issue of integration that has been taking place in financial services. If we were to impede

that process, we can envisage situations such as people in small communities who may not have access to the range of services that consumers in larger communities may have.

So if we were to allow institutions to provide a range of services, we would be also enhancing consumer choice.

Mr. Goldman: But it really is a basic economic principle that, you know, increased competition in any given market does tend to lead to a better choice at lower cost for those consuming the products from those markets, including services. And in basic terms, that is what we are saying, that that should not be lost sight of at any time. And there may be ways to achieve the other concerns that you have in conjunction with what we consider to be a very fundamental concern: that is, maintaining competition.

Mr. McFadden: The problem that we are going as a legislation to face shortly is to deal with the draft Loan and Trust Corporations Act, which I expect will be coming up for consideration this fall. And among the provisions there is to increase the minimum capitalization of trust companies from one to ten million dollars.

The query that does arise there is, would that tend to act as a very significant impediment or potentially even a total bar to the development of, for example, regional trust companies that might service given geographic areas to the advantage of that particular region, might be sensitive to that particular region? Perhaps that is the minimum level, though, for purposes of financial integrity. I am not sure, and I guess that is a judgment call that will have to be made, and the Ministry here, after some study, has suggested the \$10-million figure. That is a very real problem. I do not expect you to necessarily comment on it unless you choose to.

But basically, a tenfold increase in capital minimum requirements can be a barrier to entry potentially into the marketplace of some size.

Dr. Khemani: Okay. I will comment on this proposal only in generic terms because when one uses the phrase "barriers to entry," what we normally mean is that the costs of entering a particular market for a new firm are higher than the costs of doing business for firms that are already in that market.

Now, if we were to increase the capital requirements for doing business, those capital requirements have to be met by all firms regardless of whether they are already in the business or whether they are trying to come into that business. So capital requirements and increase of capital requirements in and of itself does not constitute a barrier.

However, there is another aspect which one must take into account when one is addressing issues relating to capital requirements that are required by legislation, and that is whether that capital requirement is adequate from the point of view of doing

business and providing a solvent, integral firm.

An example would be that the market forces would determine that if a firm has to be successful in providing certain services, it may require thirty or forty million dollars of capital. And to have regulations say that the minimum is ten million will not really resolve the issue that market forces may nevertheless lead to institutional failure because an institution came in with only ten million dollars of capital.

On the other hand, if the \$10 million capital is very high in relation to what is required to do the cost of business, then it would pose as a barrier to entry. I do not think it is very easy for either regulators or for economists generally, or for policy-makers, to say that this is what is the minimum capital requirement to do business. The way one would approach the capital requirement is whether that is the amount that is required to ensure institutional stability and solvency.

I would just like to quickly add that anybody can enter into the restaurant business, but to set up a good restaurant, you know, you require much more capital. And so that is the kind of analogy that economists tend to use.

Mr. McFadden: And restaurants are not taking people's deposits! They could be poisoning you, but they are not taking your deposits.

Dr. Khemani: That's right.

Mr. McFadden: Thank you.

Mr. Chairman: Mr. Foulds.

Mr. Foulds: I find the whole argument--I mean, I do not quite know where to start. We talked about market forces, we talked about competition. I mean, will we realistically see a new bank in Canada in the next 10 or 15 years?

Dr. Khemani: I do not think we should try to predict the market.

Mr. Foulds: But one of your basic arguments is going to be that the market keeps things honest so that the consumer has choice. You have to take a look at what the market is going to look like in the future.

Mr. Goldman: Well, the premise that we are working on you know, is based on a good number of historical instances that say that when you open up a given market to competition it tends to allow for a healthy resolution of most issues. And in certain cases when you are dealing with, for example, banks, you may want to have additional safeguards for stability and solvency purposes. But historical instances have shown time and time again that too many artificial

restraints on a marketplace can cause more problems vis-à-vis ensuring that you are getting the best product at the best price in a competitive fashion.

So what we are saying to you today is that there are not any easy answers to these issues that you are looking at, but there is a balancing approach that has to be taken into account before a determination is made to bring down, let us say, blanket restrictions. As long as that balancing is considered and the input of competition is considered, there will at least be an attempt made to ensure that competing objectives--and they do compete to some extent--are focused on concurrently in that deliberation process.

Mr. Foulds: In your view, should trust companies be allowed to compete in more so-called banking activities?

Dr. Khemani: Well, the thrust of our submission has been that there is room for inter-institutional competition, subject to certain considerations for self-dealing and conflicts-of-interest considerations, and stability, of course.

Mr. Foulds: This is what I find difficult. Basically, there is not going to be a new entry into the banking business. If there is going to be competition in that area, it will have to come either from the trust companies or from the credit union movement.

Dr. Khemani: Well, there are right now various types of restrictions on the entry of foreign financial institutions in the provision of services. Also, the extent to which trust companies can compete in different product ranges is determined by legislation. The basket clause was one type of example.

My understanding is that under the proposals that form Ontario Bill 116, there would be liberalization of the kinds of activities that trust companies would be able to get into. We see that as being in the right direction.

How far one should take that is something that is very complex, and one would have to examine the so-called core functions and what kinds of conflicts could arise and what kinds of safeguards can be devised.

Mr. Goldman: And that, simply put, is not our province, to examine how far it should go. We just welcome the move in that direction.

Mr. Foulds: You indicated, I believe, that some concern, maybe your major concern, was an abuse of market power.

Mr. Goldman: Yes.

Mr. Foulds: Could you give us some examples of an abuse of market power?

Mr. Goldman: I can refer you to what is now a non-exhaustive list in the statute, but under Section 50 of the legislation there are defined under the heading "Abuse of Dominant Position"--and that is the new set of provisions that replaced criminal monopoly provisions. Under that heading, Section 50 does attempt to outline anti-competitive acts, and those anti-competitive acts can then form one of the elements for an application before the Competition Tribunal under Section 51.

You have to show a number of elements, one of which is that the person who occupies a dominant position--that is, substantially controlling a market in Canada--is engaging in the practice of one of these anti-competitive acts, with the effect of substantially lessening competition. When you go down that list, you will see, for example in sub-section 50(E), one of the activities that is referred to is the preemption of scarce resources required by a competitor for the operation of a business, with the option of withholding those facilities from the market.

If that is done by a firm that is in a dominant position, and it is attempting to preempt relatively scarce resources, that is an abuse of its market position.

The second one that I refer to by way of example is the acquisition by a supplier--and that is a supplier of services as well--of a customer who would otherwise be available to a competitor of that supplier, for the purpose of impeding or preventing that competitor's entry into the market or eliminating the competitor. So it is really throwing one's weight around.

Mr. Foulds: Okay. But if there is somebody who feels himself victimized, the tribunal, as I understand it, can go on forever; i.e., there is no time by which the tribunal must make a decision.

Mr. Goldman: The tribunal is charged under Section 51, when we are dealing with abuse of dominant position, with the responsibility to determine whether all of the elements of an abuse situation exists--they are listed in Section 51--and then, if satisfied, the tribunal can make various orders prohibiting those persons from engaging in that practice. It is just a matter of how long it takes for the inquiry on the Director's part to be resolved and, if a decision is made to go before the tribunal, how long that hearing takes.

Mr. Foulds: But what I am saying is, that could go on for such an extent of time that a competitor could be kept out of the market. You are not guaranteeing access . . .

Mr. Goldman: Well, there is in addition, in the new legislation, a provision in Section 76 for interim orders. It is now specifically provided for in the Competition Act. And Section 76 provides that once the Director has made an application for any relief under this part, which includes abuse of dominant position, the tribunal may grant an interim order, now, on essentially the same terms as the principles that would ordinarily be applied by a superior

court when granting an injunctive relief. So there is now a specific interlocutory injunctive relief power in the legislation, if you follow what I am saying.

So once the Director brings an application, if it is a situation where the balance of convenience and the other kinds of concerns analogous to civil injunctive proceedings ought to favour the granting of that kind of an interim order, the Director can make such an application. If the tribunal is persuaded that that order ought to be granted, it can issue that kind of an interlocutory injunctive order pending the final determination, because, yes, these things can take time to reach a final determination.

So that power has been included in the legislation.

Mr. Foulds: Yes. I am certainly not an expert in this area, but such an injunctive order would only stand up, surely, if it prohibits somebody from doing something. You cannot order somebody to do something.

Mr. Goldman: Well, there are also provisions for--well, there are provisions for conditional orders, but the prohibition that is the focal point of any such order under an abuse section is to prohibit the entity in the dominant position from engaging in that anti-competitive practice, which is really what the . . .

Mr. Foulds: Okay.

Mr. Goldman: . . .the concern is in those situations.

Mr. Foulds: So you could order someone to . . .

Mr. Goldman: Cease and desist until there be a full determination of the matter before the tribunal. And once an interim order is made, there is an additional provision that I would just flag for you that requires the Director to proceed as expeditiously as possible to complete the hearing before the tribunal.

So you have got all indications in the statute of effective and expeditious relief to the extent possible.

Mr. Foulds: I am not sure--I think you answered my question, but I am not sure.

Mr. Goldman: If I did not, please let me know and I will try to again.

Mr. Foulds: Well, I will re-read the script and see what--I guess what I am trying to put in very simple terms, if you have institution A that is in a dominant position, and institution B that needs to have access to financial services in order to be a competitor, and institution A is the only one he can get financing from, can you order that financing to take place?

Mr. Goldman: Well, we would have to evaluate a particular fact situation under Sections 50 and 51, and I do not think it is appropriate for me to give a general statement with respect to a very involved set of facts. We would deal with these kinds of hypotheticals under a program of compliance, where specifics are given to us and then they have to be evaluated in accordance with the specific statutory elements.

But we would look at any situation that is given to us, and all I can say is if you do have questions as to the extent to which this act is applied to particular situations, we would be happy to address these kinds of questions if you want to put them to us.

Mr. Foulds: Is it fair to say that your general approach is that agglomeration or conglomeration of financial resources is not necessarily a bad thing; that it is in conjunction with other factors that it could be dangerous and lead to an abuse of power?

Mr. Goldman: I think that is a fair statement. It is not necessarily a bad thing in and of itself.

Mr. Foulds: Okay. But in conjunction with other factors, then you have to look at those situations on a one-by-one basis either in terms of the sector or geographic distribution.

Mr. Goldman: Yes. You have to examine them on the basis of the particular facts applicable to the entities of concern and, of course, the relevant market that you are talking about.

Mr. Foulds: Okay. Thank you very much, Mr. Chairman.

Mr. Chairman: Thank you.

Just somewhat supplementary to that, I can see where if there is an industry involved in the financial institution, abuses can occur. Are you suggesting an abuse can occur from a dominant financial institution per se, as a financial institution?

Mr. Goldman: By the fact that it occupies a dominant position per se, one does not necessarily follow from the other. In other words, by holding a dominant position it does not necessarily follow that there is going to be an abuse in any given market. And that was recognized by the new competition legislation because persons occupying a dominant position are only enjoined if they engage in anti-competitive acts which then lessen competition in the market.

So size alone, again, is not, per se, a problem.

Dr. Khemani: I would like to amplify on that by saying that one must not equate size with market power. The mere fact that an institution or a firm is large in absolute size, or even in terms of relative size in a given market, does not mean that it possesses market power.

Miss Stephenson: I think the question related to whether there was more potential for abuse if indeed there were an industry involved as a dominant power in financial services, rather than--some extra-financial-service industry or company--than if the financial services company were the dominant power in that kind of conglomeration.

Is it more dangerous to have a company that has no relationship with financial services as the dominant power in a conglomeration, or to have a company which has a great deal to do with financial services, perhaps in another area--probably in another area--as the dominant power in a conglomeration. Is there a difference? That is the question. Because we have had differing opinions about this.

Mr. Chairman: Yes.

Mr. Goldman: I do not think we can make that general statement that one is necessarily more harmful or potentially subject to engage in more abuse of its position than the other. I do not think that those sorts of generalities can be stated fairly.

Miss Stephenson: The financial services people appear to think that they have the kind of mind-set, wisdom and capability which is unique and necessary for financial services and that anything that comes in from the outside can only come in for nefarious purposes or some kind of ulterior motives, and I am not sure that that could be construed as . . .

Mr. Goldman: We are only looking at this question in terms of the abuse of power with respect to particular markets, properly defined markets. And you may be looking at it in terms of aggregate concentration and the conglomerate issue, which goes beyond the focal point of our concern, so I do not know that we can go any further at this stage.

Miss Stephenson: I guess we are asking for the wisdom of your experience as the investigative arm as Director, within that area.

Dr. Khemani: We only look at market-specific situations with regard to determining competition. The kind of issue that you are referring to, I think, falls under the category of self-dealing and conflicts of interest.

Miss Stephenson: Well, is not self-dealing and conflicts of interest measured significantly, as you have suggested, by the way in which they impede competition? And I guess that is why I am asking whether you have any information which would lead you to believe that there is a difference in these two circumstances. If you do not, then that is helpful.

Mr. Goldman: I do not think we do, but I will tell you that if,

by further consultation within the bureau shortly after my attendance today, we do have any such information which is not otherwise subject to our confidentiality and privacy provisions, I would be pleased to make them available to you.

Miss Stephenson: We do not want to know anything that would invade anyone's privacy, and we do not want to know anything that would be--we just want to know statistical information.

Mr. Goldman: In general terms, if we are able to give you any further assistance on that question, we will do it shortly.

Miss Stephenson: Great. Well, that would be helpful.

Mr. Chairman: We would appreciate that very much.

Mr. Haggerty: Just a supplementary. The definition of a conflict of interest, is that defined under any rules or regulations at all?

Mr. Goldman: Not under the Competition Act.

Dr. Khemani: Not under the Competition Act. We describe them generically in our presentation.

Mr. Chairman: We are going to provide the Committee with copies of the Competition Act very shortly.

Any other questions?

Gentlemen, obviously your presentation has been received with rapt attention. You have been of great assistance to us, and you will be, obviously, as we continue to wrestle with this problem.

Thank you very much for coming down here.

Mr. Goldman: Thank you.

Mr. Chairman: We will be back tomorrow at 10:00 o'clock. Some time very soon, and I do not want to throw this at you at 4:10 today, but I do wish--and if it is possible, we could squeeze it in tomorrow--to spend some time discussing some of the planning for the activity of this committee following the completion of this report.

I am particularly concerned that we will need a lot more than the two hours that we seem to have been assigned, perhaps without much thought, by the House leaders. I will be looking for direction from this committee to write to the House leaders asking for more time, because obviously we cannot achieve what the legislature really wants us to achieve in two hours a week.

I realize I am, throwing this at you right now, but if we can work it into our deliberations tomorrow so that we can perhaps--

can receive some directions to write a letter to the House leaders immediately, then perhaps the matter could be resolved before the House resumes on the 14th.

Mr. Ashe: Another thing, Mr. Chairman, to that, it would seem to me that judging by the agenda tomorrow is probably the busiest day we have had to date, and it is not the most appropriate day. It should have been today or next week. We have got four presentations tomorrow.

Mr. Chairman: Apparently Tuesday morning--the Credit Union Central will not be here Tuesday morning, the 7th. So perhaps we could right now agree to discuss this matter Tuesday morning, the 7th of October.

Mr. Ashe: Fine. I think to give justice to what you are trying to accomplish, Mr. Chairman, trying to squeeze it in tomorrow might not be helpful.

Mr. Chairman: No, all right. It is just that I think we need to do it as quickly as possible.

Mr. Ashe: Sure. I do not disagree at all.

Mr. Foulds: If I could make a personal request? If that is what we are going to debate on Tuesday morning, just because of plane schedules it is easier for me to be assured that I will be downtown at 10:30 rather than at 10:00.

Mr. Chairman: Ten-thirty sounds good.

Ten-thirty, then, Tuesday, for the planning of the committee subsequent to this subject.

Miss Stephenson: If you began at 11:00 on Tuesday, you would probably manage to get most of us.

Mr. Chairman: Actually, I find when you are talking about procedure, we consume whatever amount of time we allot ourselves. So I am quite happy to do it starting at 11:00, if that will please everybody.

Eleven o'clock, Tuesday morning the 7th, then.

Meeting adjourned.

The committee adjourned at 4:10 p.m.

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

THURSDAY, OCTOBER 2, 1986

Morning Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Stephenson, B. M. (York Mills PC)

Ward, C. C. (Wentworth North L)

Substitutions:

Callahan, R. V. (Brampton L) for Mr. Ward

Hennessy, M. (Fort William PC) for Mr. Barlow

Morin-Strom, K. (Sault Ste. Marie NDP) for Mr. Mackenzie

Poirier, J. (Prescott-Russell L) for Mr. Ferraro

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witnesses:

From the Canadian Bankers' Association:

MacIntosh, R. M., President

Korthals, R. W., Director; President, Toronto-Dominion Bank

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, October 2, 1986

The committee commenced at 10:10 a.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: We have a busy day today. We welcome the members of the Canadian Bankers' Association. We have Mr. MacIntosh, the President, and with him is Mr. Robin Korthals, the President of the Toronto Dominion Bank, who I was informing has been holding onto my money ever since I started my paper route and doing a good job of it, I guess. I have got more money now than I had then--slightly.

Mr. Foulds: Doing less work!

Mr. Chairman: Doing less work.

The Bankers' Association has a very substantial submission they have made to us and a very interesting kit, some of which material we might wish to seek more of for our constituency offices.

In any event, Mr. MacIntosh wishes to talk to us directly from other notes which supplement the submission, I believe. Is that correct, Mr. MacIntosh?

Mr. MacIntosh: Yes, Mr. Chairman, sort of to summarize the points that we are trying to make, yes.

Mr. Chairman: Yes. And then you will entertain questions thereafter.

Mr. MacIntosh: Yes.

Mr. Chairman: Thank you. Go ahead.

Mr. MacIntosh: Mr. Chairman, we want to thank you for the opportunity to appear here in front of your committee. I might say this is not the first time that Mr. Korthals and I have been here. We were here to make representations on the Ontario Trust and Loan Act some time ago, so it is not a new experience for the CBA.

And I also want to just note that we recognize the important role that the provincial governments play in the financial structure of this country, and that is why we are glad to participate in the process of your analysis of the structure of financial institutions. It is not just federal issues, of course, on the table, but provincial ones as well, and we recognize that and that is why we are here.

Mr. Korthals is a member of our governing executive council, which is the governing body of our association, and will help me out, I hope, as soon as I get in trouble, which probably will not take too long. But we have 65 banks in our association--at least we had 65 when we started this session this morning; I am not sure whether we will still have 65 by noon hour--and that represents the 10 Canadian domestic banks and the 55 Schedule B foreign banks, all of whom are represented in our governing council.

I would like to speak for a few minutes about the meaning of "corporate concentration." What does it really mean? Lots of people think that concentration means big size, a few players of big size. And you have heard a lot of criticism, and there has been a lot of criticism over the years, that banks are very large and dominant in the financial system by reason of their size. And I want to address that just for the moment.

It is true the banks--some of the banks are very large. The big six banks are very large, both in Canada and on an international scale. It is not true that they dominate any particular part of the market where products are delivered in their market. There is a lot of literature now being written by academics and professionals in the field to say, look, you cannot just look at the number of players in a field to determine whether or not there is a degree of competition. The larger the number of players does not necessarily increase the amount of competition.

One of the witnesses was telling you the other day, repeating one of the great myths, that the American banking system is more competitive than ours because they have got 14,000 banks and we only have, well, 65 and we have six big ones. That is a great piece of mythology.

The fact is that most of those 14,000 banks, in their own markets, have very little competition. If you take a state like Illinois, with 1,200 banks in one state with a population about the same as Ontario's, I guess, dotted all over the state, they do not have very much--they do not have any competition from the Chicago banks, which are not allowed in there. They have one branch--well, they have now changed the law a bit and they are getting into chain ownership, but they have had historically one branch of the big banks in Chicago. They cannot go into Springfield, Illinois or anyplace else. There is no competition from them. The little banks in the U.S. want to keep the big banks out. Why? They are afraid of the big banks, and this is true right across the states, of course.

So if you actually look at the competitive level--let me reduce it to a simpler point: if you compare the cost of financing a car and you go over to Buffalo and compare what it is to Toronto or Hamilton, just take a look, it costs more for a conditional sales contract down there than here.

I was looking at mortgage rates in the *Wall Street Journal*.

Their rates are higher than ours for a residential mortgage. Now, how can that be? Their other interests rates are all lower.

A U.S. Government Bond--long bond is about seven and a half per cent right now, a long bond. A Government of Canada Bond is I guess around 10 per cent. Their interest rates in their government securities are below ours by a big margin, but their bank rates are not, they are above ours. So if you want a test of whether there is competition between the banks here, look at that.

The question of--the issue is, in competition, how many players are there in a market. Are there a lot of people in the markets in which the banks compete with the trust companies? There are many, many players now. In the deposit--Canadian Payments Association, there are 130 members in the Canadian Payments Association that are all taking deposits.

If you pick up any--this is from the *Toronto Star* yesterday, or last week, comparing home--rates on mortgages. You can see these any day in daily newspapers, the rates on home mortgages. Just go through the list. The rates of interest charged by banks are usually--are never higher than those of trust companies, sometimes lower.

Deposit rates. You can get those out of the--shopping for interest rates. Here is one from yesterday's paper, also from the *Star*, a couple of days ago. I am not trying to advertise the *Star* particularly, but--you have got them in the *Globe* too. And you will find that the rates--you have got rates of many, many institutions. The notion that there is lack of competition, of course, is just mythology. There is terrific competition in the marketplace.

If you look at the commercial loan field, you know, there is a belief that the trust companies have to have expanded powers, and the insurance companies, in commercial lending because there is a need for more competition. Anybody who knows the commercial loan market in this country knows that it is viciously competitive right now. In the high end of the market, the large size, if you take, say, a million and up, or especially 10 million and up, large corporate borrowings, those people do not have to borrow just from Canadian banks. They can borrow from foreign banks, they can borrow in the Eurodollar market, they can sell paper in the street. They can sell debentures, bonds, preferred, the whole market. There are a lot of players that are not banks in that commercial loan market.

And now if you move down to the next size market, what I call the mid-sized market, you have got--which I will say is a sort of a half-million to a 10-million range--now, the 55 banks in our association are all in that market. That is where they went for. And the margins are poor because they have been competing with the A banks, the A banks' margins have been cut badly in that market, and nobody is making very much money.

Just look at the--we publish the returns, which we will be

glad to supply, if you are interested--the quarterly returns of the B banks, most of which have their headquarters downtown here in Toronto. Of the 55, I guess about 40 of them are here, or more than 40 downtown. Well, if you look at their rates of return, they are making under 35 cents per \$100 on assets, which is inadequate. The A banks are only making about 50 cents on assets, which is also inadequate. The rate of return of the B banks is not enough for them to make a living wage over the years. So they are in that mid-market.

In the small market, which I will call the small business and farm market--which is of interest to you, I know, and it is of interest to the members in Ottawa too--the main players in that market are the big six banks. Any time we have a meeting in our association to talk about small business or farming or the retail deposits, there are normally six banks present at the meeting. Everybody can be present but the six are there because the other guys, for the most part, are not in that market.

If you raise an issue about farm lending here in Ontario, which we all know is a very important subject--in fact, I was having a meeting just this week with the Minister on the subject of farm lending in Ontario; we meet them from time to time--who do you see there? You see the big six there. Do you see the trust company fellows there?

The people who have been coming to talk to you about their need to get into the markets to compete with the banks--I suggest, Mr. Chairman, you ask them whether they intend to go into the farm market in Ontario, whether they intend to go into the small-business-loan market in Ontario, under a half a million dollars. The answer is no, they have not got the slightest intention of going into that market. They have not the slightest intention. Some of them have said so publicly. They have no interest in that. They want to go in the upscale market. They do not intend to go into rural Ontario. That is the furthest thing from--ask them and put it on the table to them and see just how far they go.

They say they want to compete in these kinds of markets. Mr. Chairman, they already have the legal power to make small business loans in Ontario under the SBLA act, the federal act. They can make farm improvement loans in Ontario under that act. Just take a look at how much they have got from that market. They say they need more legal power; they do not use the power they have got in that field.

In Canada the banks have 90 per cent of the small business and farm improvement loans; the credit unions have maybe six or seven per cent; the trust companies have one or two per cent, one or two per cent. And this is the market in which they say they would be more--you know, you have to check their credibility on this. Check their credibility.

Now, another issue, if I can turn to another subject for a moment. I know you have heard a lot of people talking about whether

estate trusts and agencies should be included when you look at size. Well, I would like to make a couple of points on that.

They have all been in, the trust companies at great length, the corporate financial holding companies, to say that you should not include ET&A when you compare banks to them. Well, to a degree I would concede that you have to distinguish between where they have decision authority over the assets and not. But you know, these people that you have had as witnesses, they really want to have it both ways. They want to say that you should not include the ET&A assets but when they want to brag about their size, let me show you what they say:

"Canada Trust is now as big as the big banks."

Mr. McFadden: We have already made a point on that.

Mr. MacIntosh: Have you? Oh, I did not know you had seen that ad.

Mr. Foulds: We have not seen that one, but we have seen similar ones.

Mr. MacIntosh: Now, let me make another point. They say, you know, that we are wrong to include the ET&A assets. Well, I grant you that where an estate or a trust is in the hands of the trustee but they cannot do anything without the authority of the beneficiary, that is true. And if your Aunt Nell leaves you \$30,000 insurance money and it is under--the terms of the will require that the trust company consult the beneficiary before anything is done; they cannot buy 100 shares of Bell phone, or Canada Savings Bonds or Government of Ontario bonds, they cannot do anything without calling up and getting authority, I grant you that you might not want to include those assets, their ET&A, in their size.

But the fact of the matter is, you take a look--here is another ad, this is a Royal Trust ad for mortgages. Just an ordinary ad you see every day in the newspaper. I will guarantee you that nobody in this room or anywhere else would know whether that ad refers to mortgages that are going into the company or into trustee accounts. You cannot tell. There is no way. Their interest rate, their terms of mortgages, everything they do in the mortgage market is consolidated from the point of view of the marketplace.

So I am only saying--there are two streams. Sure, they have a company stream and they have a trust stream. But from the point of view of the management of their mortgage portfolio, there is one stream.

Now, the point is only that if you are going to talk about size of their mortgage portfolios and compare it to the bank size, then I say, well, all right, fair is fair; include their mortgages under management if that is--and they amount to--which they do not include in their size, you see. They have got \$11 billion in ET&A

mortgages, the trust companies which they do not talk about.

We would suggest that the solution to this is that the trust companies have to define in their reporting system under Ontario law which part of their assets they have decision-making authority over, and which not. They should be able to divide that. They have to divide that to administer, they must. But they do not have to publish that kind of stuff.

But when they make these assertions that we are wrong, we say, produce your numbers. Produce your numbers. We produce our numbers, let us see your numbers.

So we are saying that no one dominates the financial markets in which the banks operate.

One other concern, if I could take a couple of minutes more, Mr. Chairman?

Mr. Chairman: Surely.

Mr. MacIntosh: The issue of financial/non-financial mixing ownership of those issues: you may have noticed that in the Throne Speech the Government of Canada yesterday decided--I guess they want to compete with this committee--they are going to establish a House of Commons committee for the same purposes of the terms of reference of your committee: corporate concentration. But I believe that the Government of Canada is indeed concerned about this issue of mixing non-financial and financial, and we are and always have been.

The reason is very simple: we have had a Bank Act that has been in place since 1871. It has been revised 11 times over the years, and throughout that period it has been a basic principle that you separate financial from non-financial; that you do not allow an industrial corporation to control a financial institution because they feed the--the financial institution is used to feed the industrial corporate's functions. Sometimes, not always. And we do not claim that in all cases there are bad practices, certainly not. I mean, you have had some witnesses who are very reputable people in front of this committee. I am not claiming that those people do improper things.

The point is, you do not pass laws for those guys; you pass general laws because there are some people who do those things. And for all the evidence you have heard here, the fact is that 11 trust companies have gone down in this country in the last five years, 11 financial institutions and 2 small banks. And of those 11, in every single case, self-dealing was involved.

In the United States, if you look at their data, and we follow this, 90 per cent of the failures in the United States--and they have just had their, I think, 134th bank failure this year down there--this year!--in almost all their cases that come under examination by their authorities, self-dealing has been the problem in the banking industry

down there: where you have closely held ownership and you have the feeding of the interests of the dominant owner from the financial resources. And that is why the Parliament of Canada has always separated these two things.

So we say that that is still a problem, and we hold to the view that there should be a 10 per cent limit for everything. It applies to us. These people say they are in the same business, I just showed you that. They say they are in the same business. Well, if the law is relevant for us, if the 10 per cent limit is desirable, why is it not relevant for them?

You cannot have two laws, one saying it is okay for A but for B we will have a completely different set of laws--doing the same business. That does not make sense. That is our argument. We have been thumping at that in Ottawa a whole lot. I think they are beginning to hear us for the first time in several years. And, Mr. Chairman, we hope that you hear us.

I think perhaps that is a sufficiently long introduction here.

We did give you a package of material, and what I wanted to just mention to you is that our association spends a good deal of time and effort now to try to provide the consumer with material which will be useful to them, which is not of a competitive nature. The individual banks, of course, produce a lot of material of their own where they are selling or marketing their services, but I thought you would be interested in some of this. We have made a huge distribution of some of this material on how to go about looking at a mortgage when you have to do a mortgage, and what to look for when you borrow money. And we have also put into the school system "Money Matters." We have distributed over a million of those in Canada now, and if any of you are interested in that material for your constituents, let us know. It is freely available from us. But we are trying to provide the general public with a . . .

Mr. Haggerty: That may cause a conflict of interest!

Mr. MacIntosh: Well, it does not apply to any individual institution, Mr. Haggerty. It is of a general character, and we think it might be of interest to you. But I just wanted to throw that into the pot today for your attention.

Thank you very much.

Mr. Chairman: Thank you very much. That was a very spirited presentation. I do not know whether, if the trust companies and credit unions were here, they might suggest that they are not getting into farm loans because the big six own all the farms. But I am just throwing that out for discussion.

Mr. Mackenzie has a question, and then Mr. Callahan.

Mr. Mackenzie: One of the things that leads to some of the

queries, I guess, and concerns of people is the availability of loan money.

If I can deal with the small category that you ended up talking about, we just went through in Hamilton, myself and my colleagues, an exercise coming up with what we called the Hamilton Challenge, to try and give some direction or some ways that we might improve business, industry and employment pictures in the Hamilton area. It was a year-long exercise that saw us meet with literally hundreds of groups. We broke the city down into various groups. Amongst them were small business and the retail trade. And one of the things that I had picked up in my constituency office a bit, but I certainly picked up at these meetings--as a matter of fact, it was almost a dominant theme amongst small business people--was the inability to get money from the banks for a new business, a small business, or the expansion of a very small business.

Now, in most cases we were talking about relatively small businesses, but we also had it related to us from the large business community. Nine of them met with us, mostly presidents or vice-presidents, and said they did not have a particular problem in terms of accessing money for their operations but they knew it was a problem with some of the smaller businesses.

Now, what category they were talking about, I did not question them at the time, but it was not a one-or-two deal; it was almost a universal theme through the hearings that we held, and they were public hearings in Hamilton, about the difficulty of small businesses or brand new businesses, an entrepreneur, getting the capital to start up a business. And I am just wondering what your response is to that, Mr. MacIntosh.

Mr. MacIntosh: Well, if I could start off, but perhaps Mr. Korthals would want to enlarge on this.

First of all, the banks are not in the equity business. By law, we are--there is sometimes a confusion about this. The banks are not intentionally in the equity business by law. Sometimes they wind up being that unintentionally, but the fact is that banks are not allowed to be in any other trade or business and cannot buy equity to the extent of more than 10 per cent. So there is a misunderstanding that the banks should be supplying risk capital in equity business to a start-up business. They cannot do that. They do not even have the legal power and they are not intended to do that, in this country or indeed in any other country. That is not a banking function. That is a venture capital function.

If you are talking about the ability to borrow on the basis of having some initial net worth, all I can say is this: we carried out a major study of this because what you are saying is often said, not just here in Ontario. We hear it a whole lot from all the parties in Ottawa over the years. So we carried out a major study which we commissioned the University of Western Ontario to do about four years ago, addressing that question. And we had been--actually, we

did it jointly with--funded it with the Department of Industry and Trade at that time, in Ottawa. And we had--those people on the Western faculty actually went into the bank files all over the country. They looked at, I think, 6,000 files, and they looked at turned-down files and everything.

And we published the study, but nobody likes to read the results of it. That is the problem.

People do not like to find out what it really says: that there was not a problem about a shortage of bank money. The problem is a shortage of equity money, yes. We do not question that there is an underlying equity problem. But there was no evidence that there was a shortage of bank lending for worthwhile purposes.

Now, I am not saying that sometimes branch managers do not make mistakes. Of course they do sometimes, and they turn down deals that they wish later they had not turned down. Sure. But the evidence on the record is there, and when you go around--with all due respect, I run into this a lot. Members of Parliament, members of this legislature, you hear from these people stuff like that. I get this often from Cabinet Ministers in Ottawa and I say okay, well, give us the facts; let me know all the specifics of the case. But you know, we do not get the specifics. It is like nailing jelly to a wall.

When you come down to it, maybe the guy was not worth--and the banker is not going to tell you that the guy is a bad manager who got turned down, and he is not going to tell you he is a bad manager. He does not even know it, probably. And if the bank knows it, they are not going to go around and say it. They cannot. That is a libellous thing to say, and they are under confidentiality. But the fact is that lots of people who have a small business cannot handle it. And then they go and complain to their member, of course.

Mr. Mackenzie: Let me use one of the examples that was present at--I think we had a meeting of 34 entrepreneurs or small business owners in the City of Hamilton at one of the sessions, and there is a woman who is now reasonably successful--I think there are now five employees--in silkscreening; it goes beyond the conventional screening operation. But she had tried for two years to borrow money, and I think the figure she was looking at as a start was \$40,000 in fact, but had been unsuccessful. It finally did come from private sources, and it is now--it is about five years old in Hamilton--a going concern. That was really just typical.

You say a lot of people say this and cannot back it. I have to go back to the cases we had--and we were not looking at it from that particular point of view. What surprised me at the hearings was the number of small business people who told us they had trouble trying to borrow money. Now, is that equity capital we are talking about in a case like that? Maybe I do not understand it. But it was a new business idea. She had worked for another firm and she thought she had something that she could promote, and as it has turned out, it has been very successful.

But we had a number of cases like that at the hearings that we had, where people were having difficulty, through the banks, getting money. We had an indication there was more success with a couple of local credit unions, for example, than there were from the banks.

Mr. Korthals: Well, it is a tough question.

Mr. Mackenzie: I raised it only because I can see where that leads to some of the questions that come before a committee like this.

Mr. Korthals: You know, banking was supposed to be a--is really supposed to be a very low-risk business. It is hard to make that statement when this year industry already owes \$3 billion. But the fact is, with relatively little capital the banking industry has the right to take on deposit transferrable money from businesses and from individuals, and they are sort of the ones that make trade and commerce happen. And there is quite a fiduciary responsibility that you take on when you take on maybe \$24 or \$25 in profits for every \$1 of capital. And the returns in the business are not astronomical. You cannot afford to take an awful lot of risk.

Now, in small business, we can produce statistics that--in loans under \$100,000, we have a hell of a lot more losses than, say, in loans around \$400,000 or \$500,000. And bankers should really not be lending money where there is no demonstrable security. In other words, they lend money and they say, how am I going to be repaid? Well, out of the earnings or the sale of the assets, but they generally look for a second source of repayment. What happens if the sales are not made or the earnings are not realized? And therefore, they look for some other collateral.

And the kind of problem we get into is one I just looked at very recently, a tiny business in Metropolitan Toronto, really a husband-and-wife team, very creative and very good customers, and their net worth in the business was about \$40,000. Because they are in a promotional business they can adjust their payables to match their actual receipts, so they really do not use bank credit very much. But they wanted to buy a house. So because they did not use all their capital in the business, they took it all out and bought the house. Then they got an incredibly large order, and that time they could not match their receipts and payables.. So they went to the bank and said, we would like to draw; the bank said, why don't you put up your house as collateral? And they said, that is an unreasonable request. Well, there really was not much net worth left.

This is a problem. We are asked to finance businesses who are in a start-up, or existing, where the owner has really more equity outside the business than in the business, and we end up taking all the risks. And I do not think that is what the banking industry was initially set up for. We may decide that that is what we want to make the Canadian banking industry become: a provider of start-up money

or seed money, or money lent with limited recourse to the individual's assets outside the business. But then we should learn to operate on leverage ratios of 2 and 3 to 1, not 20 to 1.

In fact, that is how new banks in Canada have competed. When the CCB and the Northland--and there are other examples--entered the business, they competed by making business loans where they committed the owner to the business to a lesser extent than the major banks. And at the first downturn, they were blown away.

So it is a difficult problem. I know the frustration on the part of the individuals, because we are always there and we are the easiest, logical, quickest place to get money and we are not very aggressive about putting it out. But the reason we are not is--you know, the way the economy is structured, that was not initially envisaged to be our role, and there are specific cases where we get it wrong and screw it up. But I hope. . . .

Mr. Mackenzie: I am not trying to pass judgment whether you are right or wrong in your defence. I understand what you are saying, but it certainly could lead to some frustration, as was very obvious at our meetings.

Mr. Korthals: I understand the frustration because the community at large does not understand the prudential responsibilities of bank management either.

Mr. Mackenzie: Well, it may be also that government is not doing a proper job, because what we hear is that the road to success in the future is through all of these entrepreneurs in the development of so many new and small businesses, and yet you have those same people when you are meeting with them telling you that they have difficulty in getting the money to start their businesses.

Mr. Ashe: Mr. Chairman, before it gets too far down the line, could I have a supplementary on Mr. Mackenzie's original question?

If I understood the answer correctly, part of your answer was that the Canadian banking industry this year will be writing off about \$3 billion in bad debts? Is that pretty well what you said?

Mr. Korthals: I think that is about the number, is it not?

Mr. Ashe: I am not challenging the number. You know better than I do. But my question is, is that the global write-off or is that the onshore? Including the offshore?

Mr. Korthals: That would be global.

Mr. Ashe: Okay. How much of that is offshore?

Mr. Mackenzie: Not half.

Mr. Korthals: Not half. It would be a third, maybe. The big write-offs are right here. The big write-offs are in western Canada.

Mr. Ashe: Well, they would be out there, I guess, at this point in time. That is for sure.

I guess what has bothered--well, I will say personally, but I think Canadians generally, is when we look at the situations of some banks more than others within the banking industry to see how susceptible they are to loans they made offshore in huge amounts. When you talk about security, I mean, there is like nothing, and the chances of--I mean, it is just a matter of how you are going to write it down and how you are going to write it off, is the way I read it. And even some of the figures on the books now are a little suspect, and I guess that bothers somebody that goes and has to pay a four-point spread or a five-point spread rather than what used to be more traditional, a one-and-three-quarters to two-per-cent spread. Anyway, enough said.

Mr. Chairman: Are you finished, Mr. Mackenzie?

Mr. Mackenzie: Yes.

Mr. Chairman: Mr. Callahan, Mr. McFadden and Mr. Foulds.

Mr. Callahan: Yes. I would like to ask a couple of questions. Number one is the deposit insurance of \$60,000. Is it banking policy to make a depositor aware, other than putting signs around the bank, that they are only covered for \$60,000? What I am really saying is, is there any mechanism in the banking system that if an individual comes in and puts \$120,000 into the bank, that they are adequately informed that they are only covered for \$60,000?

Mr. MacIntosh: There has been a problem about the administration of that sort of thing. In the first place, I have to say that the Canada Deposit Insurance Corporation is very fussy about what you advertise, and all that an institution can say is that it is a member of the CDIC. Beyond that, you are not allowed to go, by them, by the CDIC corporation itself. The question is under discussion right now about what instruments should be stamped as not insured, so that a person with a very large term deposit of \$100,000 is aware of the fact that the part above the \$60,000 is not insured, and that is being done.

Our position on insurance is that 96 per cent of all deposit accounts in Canada are under \$60,000. Ninety-six per cent. People who have more than that by definition have a whole lot of money and ought to be, we think, accountable for taking some precautions about the safety of their own money. We believe there ought to be some degree of financial accountability by the average person and their household about what they do with their money.

The real problems that we have had in this country in terms of the flight of money, of deposits out of a bank, have not really been

the retail depositor. You do not see any pictures, as you do down in Ohio or some place, of people lined up around the block at 3:00 in the morning to get their money out. That is not what we have had in this country. We have had the wholesale deposits going out, the big money. Not just \$60,000, \$61,000; I mean millions. And we are saying, why should the financial institutions, the bank shareholders or the taxpayer--because it may come down to that too--be footing the bill for people who are whipping their money around from institution to institution for a quarter of a percent, and putting it in the weakest institution, which by definition is paying the highest rate? So we are saying there should be co-insurance.

But for the general public who cannot be expected to know whether it is safe or not, if you are covering 96 per cent it seems to me you are really taking care of the problem of the public out there. But almost every study that has been done, including the one done in Ontario by Dr. Dupré, the Dupré Report--all the others have been saying there should be co-insurance, because you have got to have some responsibility put on people to not put their money in very weak institutions. Otherwise, we can never have a sound system. You will always be taken advantage of by the big operators with deposits.

Mr. Callahan: Okay. My next question would be on the various banks. Are there directors on the boards of those banks that come from industry and commerce? And if there are, do you not see the potentiality of the conflict that you and many others have addressed to us, that when you have a crossover you have the potentiality for some of the dangers that you spelled out in your brief?

First of all, I should let you answer. I gather that there are, on the various banks' boards of directors, other than just banking people.

Mr. Korthals: Yes. But in most cases, about 90 per cent of the board would not be full-time officers of the bank.

Mr. Callahan: Okay. And would be probably involved in other types of businesses.

Mr. Korthals: They would be officers or directors of corporations that do borrow from the bank on which they are a director.

Mr. Callahan: Now, if that is the case, if that is the present situation, how can it be argued that within the jurisdiction that we have for trust companies and so on, as has been argued in your brief and also in other briefs, that there should not be a cross-ownership? Because in fact you have got the same thing as cross-ownership by having 90 per cent of your directors being other than banking people. Surely their decisions, at least from an ostensible standpoint, could be looked at as being made perhaps with an interest of their own particular business in mind. Do you see that as a difficulty?

Mr. MacIntosh: Well, in many ways, Mr. Korthals is better qualified than me to talk about this because he deals with the problem. But in general, the Bank Act spells out that directors, where their own account is involved, have to be absent during the determination of the credit . . .

Mr. Callahan: I appreciate that, but if they are not dealing specifically with their own account, if they happen to come from a particular field that is related to theirs or could have some effect on the market within which they operate, surely they are not required to withdraw themselves from a vote on a particular issue.

Mr. MacIntosh: I guess the short answer is, how would you go about structuring a board--what kind of people would you end up with on a board of directors of a bank, or any other corporation, if you could not draw on the business skills that they had? If you are going to eliminate everybody who might have knowledge of any other account, you are going to have a very hard time finding anybody to sit on boards. You would end up with people who by definition had no expertise in business, because every businessman has those kinds of conflicts, every one.

Not only every businessman; every lawyer, every accountant. There is not anybody in the community who does not have conflicts of that character. If you define away all the people who are qualified to be on a board, then I would not want to have shares in that bank.

Mr. Callahan: Well, as I understand the rationale behind the cross-ownership . . .

Interjection: You could just have politicians!

Mr. Ashe: They do not know anything!

Mr. MacIntosh: They are ineligible to sit on bank boards in the Bank Act.

Mr. Callahan: That is probably the wisest move the Bank Act ever made, really.

Mr. Korthals: I do not know. We would have more fun!

Mr. Callahan: But as I understand the rationale behind the arguments against the cross-ownership, it is that if you have cross-ownership, you have the possibility of loans being turned down because there are competitors that are competing; you have the possibility, if not actual as well as ostensible, of them granting better deals to themselves, and so on. And it seems to me that you still have that problem, at least ostensibly if not actually, by having directors 90 per cent of which are not financial people.

It would seem to me if you want to achieve the integrity and avoid this entire issue totally, if that is possible, then your board

of directors should in fact be reflective of the financial community as opposed to the crossover of directors from other communities. Nobody has yet come that far and said that that is what should happen, and maybe it is impractical. Maybe the point you made is practical, that you could not come up with enough of them to do that. But it seems to me that to do either--to do one and leave the other open, you may be limiting the chances that it will happen, but certainly from the perception of the public you have got the same thing. You have not got anything any better.

Mr. MacIntosh: You have been told here that a dominant shareholder is a good thing for a corporation. Well, in the case of a bank, no shareholder is dominant, by definition. Nobody can hold more than 10 per cent and in fact directors probably--it would be a very well-to-do person who would own a quarter of one per cent, I guess.

Now, it seems to me that, with all due respect, you ought to look at the fact that a dominant shareholder, one who really controls the corporation, can throw out all the other directors on his own say-so. So that every director who is there is beholden to the dominant shareholder, because the dominant shareholder can get rid of them all if he does not like them. So you decide in which case there is more likely to be self-dealing.

Mr. Callahan: I just raise that. It is a problem that I cannot quite come to grips with because I do not see that cross-ownership eliminates the problem totally, because of this representation on the board.

Just a couple more, if I could. This is just a personal bugaboo, and I am going to get an answer, even though it probably is not within the mandate of this committee. I find it very interesting that when a customer who deals with a specific bank is given one of these grand cards that tells you you can do everything with it, and then you go to another bank with that card, you show them the card and they say, no, no, that is no good here; we would like your Visa or Mastercard number to put on the back of that cheque. My comment to them is, I do not really want my Mastercard or my Visa number going back on the cheque to the guy or gal that issued the cheque, because he can then take it and just call up the airline, and with our present dealings he can order tickets to wherever he wants to go with that number.

Now, can you tell me why the policy is, first of all that they issue you this glorious card that is an inter-bank card, or whatever it is called, and it has absolutely no use whatsoever to you, and yet they insist on putting your plastic number on the back of it for exposure to the person who is getting the cheque back? Now, if you answer that question, I will not ask any more.

Mr. Korthals: Well, I am going to try. I hope I understood your question. If you have a Visa or a Mastercard, you can get cash advances against that Visa or Mastercard at any Visa or Mastercard bank, other than your own bank. That is one service.

A second service we have is in any branch card--I think most banks have this; it is not a Visa card, it is a different kind of a card--but with that card you can go to any branch of your bank, but not to another bank, and access your account, and the bank will only take that particular card number. It ought not to ask for your Visa number. But you cannot . . .

Mr. Callahan: Excuse me. Maybe I should make it clear. I am talking about if you take--someone else has given you a cheque payable to you, you take it into a bank and they want your Visa . . .

Mr. Korthals: You take it into your bank, the bank of your account?

Mr. Callahan: Yes. And they want your Visa or your Mastercard number on it, which to me is foolish. It gives the--assuming the other person gets their cheques back, it gives them access to . . .

Mr. Korthals: Well, the reason they would want--they do not know if that cheque is good. They do not want to find out if you have money in your account, so the fastest way for the branch to do it is to put the Visa number on it because they know then that they can get the money back. It is like a Visa advance.

Mr. Callahan: I understand the rationale behind it.

Mr. Korthals: It should be possible, though, if you went to any branch of your bank and you had any-branch banking privileges, for them to check that you have money on deposit and honour that cheque, and if the money in your account was about equivalent to the cheque that you are going to cash, the third-party cheque, they ought to give you the money.

If they did not, then all you have to do is go to their machines, deposit the cheque and ask for a cash withdrawal out of the machine. It should be possible to do that transaction at the bank where you hold your account, providing you have funds in your account.

Mr. Callahan: Well, I am just--I am not going to press the issue, but it seems to me foolish . . .

Mr. Chairman: Your problem, Mr. Callahan, really is that your Visa number ends up on the back of your cheque.

Mr. Callahan: That is right.

Mr. Chairman: Perhaps you could ask the teller to mark it somewhere else.

Mr. Callahan: I have tried to talk tellers out of that and they say no, that is bank policy, and I say that is nonsense. In any event . . .

Mr. Korthals: It is not policy.

Mr. Chairman: Mr. McFadden.

Mr. Ashe: You ought to change banks.

Mr. Callahan: Tellers all do the same thing.

Mr. McFadden: Thank you, Mr. Chairman.

There are three or four areas that I just wanted to ask questions in. I will just start off with a comment.

Mr. Mackenzie raised the issue of the entrepreneurs and their relationship with the banking community. Over the years, in my practice I have had the opportunity to work with quite a number of entrepreneurs, I guess in the dozens, setting up companies and going to banks and trying to get money. I think that one of the problems that the small entrepreneur faces is lack of equity, as I think you have commented.

My experience with a lot of people of course is that they have an idea, whatever it might be, silkscreening or perhaps some computer software concept or some new form of calendar, and they have got an idea. They need \$25,000 to get into business and they have no money, or they may have \$1,000. And they go to the bank and the common complaint is the bank manager says, "Well, what security do you have?" "I do not have any. I have an apartment with some furniture in it, but I have a great idea here." And the bank says, "No money." And then they complain about the banking community and the fact that it does not put up any money to finance Canadian business. I think it is a recurring problem.

It would seem to me, though, that the difficulty we have in this country, I think, in the small business sector is first of all they are probably over-levered with borrowing anyway, and there is a shortage of equity capital, and I think there is a confusion in the small business community about the appropriate role of banking. On the one hand, nobody wants unstable banks, but on the other hand, they want the banks to take a lot of risks in a way that a prudent business person would not do if they were aware of all the facts.

I would just comment that while I think there are bank managers around who probably--and there are probably banks that are needlessly tough on people and demand double and triple security they probably do not need--at the same time, I am not so certain that lending money to people so that they become unhealthily in debt is any favour to that person to begin with. And secondly, I do not think it is useful for the bank itself, because you presumably do not want--my experience with bank managers is, you are not trying to seize houses and cars; you are trying to get your money back from the business you are lending to, not to wind up rushing out and getting the bailiff in to seize property. And if you cannot do that, it is not a very pleasant thing to have to seize someone's home.

So I have the feeling that in general you are not in the house-seizing business. So your problem there is . . .

Mr. MacIntosh: Farm-seizing either.

Mr. Callahan: Some farmers would contest that.

I have had experiences too where businesses were very successful for 10 and 15 years and put a lot of money through banks, and then when they had a tough year and they went in--they had a demand loan or whatever, it was called, and they were put into bankruptcy. Now, I do not agree with your . . .

Mr. McFadden: No, no, no. I am talking about start-up situations. I think there are times when businesses that are well established--sometimes there are internal bank reasons why they are getting their loans called. I could probably argue with that case as well.

I was just going back to Bob Mackenzie's case, the problem with getting somebody with an idea and no money, and what is the appropriate way to finance that. I guess that is an area that government has to come to grips with or some form of . . .

Mr. Callahan: They have debentures.

Mr. McFadden: I do not want to belabour that point because this is not really on topic, but I just--a propos of what Bob was saying, I think it is a problem. But I am not sure the banks can solve lack of capital when a small business is trying to start out all that easily.

I wonder if I could go over some areas. First of all, the whole business about the value of trust companies. You produced a large ad. We had the quarterly financial statement of Canada Trust here, which advertised on the front page \$51 billion of assets. When you look in the financial statement, you find it is \$23 billion, really, on their balance sheet, but they have grossed it all up and it is \$51 billion, throwing in estate money and anything else that they have got sort of kicking around. Puffing, puffery or exaggeration.

Now, I know that you have suggested that you think that the trust companies should somehow show--and I am not sure if you are; I am just trying to determine what you are really saying here. You are suggesting that they probably should show that \$51 billion somehow as assets under administration of sorts.

My feeling about it, and I just ask you about this, it seems to me, though, I think it is inappropriate for the trust companies to be alleging that particularly estate assets are assets of the trust company in ads like that or on their financial statements on front pages. Because while the trust company might have some authority in terms of advising the estate and investing the funds of that estate, in

the case of estate assets in particular they are subject to the probate court, there is a will, probate is involved. Estates do not just sort of pop up. There are executors who are legally responsible to the courts, to the beneficiaries. And legally I think it is improper, but I think it is also financially incorrect to be showing estate assets in particular as part of the assets of the trust company. Those are not the trust company's assets. They are the assets of another entity, namely the estate, legally, and should not be shown on the balance sheets or shown as part of an asset advertisement of any trust company.

So in that way I would simply suggest that, from everybody's point of view, they should be taken out. Certainly estate assets, and I guess you get into pension funds and all these other things. But it just seems to me improper; that funds of that nature, that clearly are not their property and are clearly subject to a fiduciary relationship, should not be shown on their assets. I know there is another debate about, well, are not all deposits then fiduciary too? I guess you could go on forever. But my opinion is that estates in particular are a very special thing under law and should not be shown.

I am not sure that you are--what I wanted to get at basically is, were you suggesting that they should clean up their advertising and not allege the \$51 billion, or are you suggesting they should be advertising their full--everything, including stuff under administration? You made two points here and I was not sure which.

Mr. MacIntosh: We are really only saying, Mr. McFadden, they cannot have it both ways. They are trying to argue that, asset-wise, they are as big as banks. That is what that ad said. But elsewhere, some of the other witnesses who came from there said that--dumped all over our association for publishing numbers which showed the ET&A included. Which way is it? If they want to exclude them for purposes of talking about their relative size to the banks, then do so, but you cannot have it both ways. They are arguing out of both sides of their mouth, as an industry.

I am only saying that it depends on what your purpose is. If your purpose is to talk about your size, I think the ET&A should be reported as assets under management. A lot of those assets are pension fund assets where they have discretionary authority.

I guess what I am really suggesting is that the trust companies should break down their ET&A assets into discretionary--wholly discretionary and non-discretionary, or sometimes it is in between. Sometimes it is a dual fiduciary authority to trustees, executors of an estate and the trust company. That is a triple authority. But since they are arguing the point that they should not--most of them are arguing the point that they should not be excluded, we are saying, well, put the numbers on the table and then the public can judge. Split them between discretionary and non. But they do not produce the numbers.

The whole disclosure issue, incidentally, Mr. Chairman, is

something that concerns us. The banks have to publish their quarterly financial statements, income statement and balance sheet statement, I think it is about 45 days after the date, in the newspaper, so the public can all see that. The big trust companies do the same voluntarily, the big ones that you have heard here. But by law, an Ontario trust company does not have to have a disclosure statement quarterly at all, and many of them do not, and likewise the credit unions. The credit unions' statements--you will be lucky if you see one within a year after date, and certainly not quarterly.

But we believe that the provincial government, the Government of Ontario--and I have said this to other provincial governments too: why do you not require the financial institutions under your authority to produce the same financial disclosure as we have to? They are in the same business. They say they are. Why should the public not see their figures the same as they see bank figures?

Mr. Haggerty: Would that help in the failure of . . .

Mr. MacIntosh: Well, Mr. Haggerty, I believe it certainly would make the--it would flag things a lot sooner, sure it would, because the issues would arise. As you know, there are many credit unions in difficulty in Ontario here, but how much does the public know about the situation?

We have got one law for banks and another law for your provincial institutions, and I say the same thing to B.C. or any of them. The problem is general, and I believe that the provincial ministers should get together and deal with that disclosure question.

Mr. McFadden: Well, I would support disclosure. I do not know what the rest of the committee would feel, but I think you make a very good point.

I wonder if I could move on to another area. It was raised earlier on by Mr. Callahan, and it has been raised with other witnesses and I did want to get your input on this. This business about loans of one type or another to bank directors has been talked about in the media. People have raised it with us here. I guess every bank has a different policy on it. What is the general policy right now in terms of loans to bank directors? Is there a general policy among the banks or is it very individual?

Mr. Korthals: To a bank director as an individual or to a business which he may own or which he might be a director of?

Mr. McFadden: I guess both.

Mr. Korthals: All three?

Mr. McFadden: Yes. Well, the trust companies, I know, have special rules, which I do not think we would be inclined to change. But they have alleged--and it has been alleged and not just by them

here in the last few days, but also generally, that bank directors were treated in a special way, both as individuals and, potentially, their companies.

Mr. Korthals: Well, we will lend money to a bank director in the same way that we will lend to almost anybody else. If it is a significant amount of money, I would guess that in almost every case it would be secured by something because we try very hard as a policy not to make large unsecured loans to individuals.

As far as dealing--if they are the sole owner or proprietor of a business, I guess we have that situation where we have lent money to companies in which directors are the dominant shareholder. We try and lend on what we believe are competitive commercial terms. We have had many cases where directors of the bank with their own business have actually dealt with other banks. We have at times failed even to be competitive with our--because he went out and shopped.

I think the idea of--the borrower today, if he has a reasonable business, and chances are if he is a bank director his business is reasonable, has a broad--I mean, we hope he is. I mean, it is embarrassing if it is not a reasonable business; that is a real problem--but he would be able to get credit from any institution. And very often they ask for two or three proposals.

So it is done on a strictly competitive basis. The amount of the loan to that director is a very tiny percentage of the bank's total assets as a rule, and the loan is disclosed to all the directors, and of course it is also tabled so that the regulators can look at each individual case if they wish.

Now, if he is a director of a large publicly held corporation, which is the earlier case which we came to, the chances are the bank director (a) does not have undue influence over where he gets his employment because it is made up of--it has its own board; it has its own officers. He probably is not the chief financial officer anyway. And on the bank board he is maybe one of thirty people. So he can really not either influence the bank's decision or the place where he works. I mean, can you imagine, Bell Canada deals with every bank and the fact that one of Bell's employees is a director of our bank has absolutely no--it does not either help us get business with Bell or does not help Bell get business, banking relations, with us.

So a director on a bank board, on a broadly owned bank board, as an individual does not have near the power that an owner would. And there is the distinction. And history has shown that there has been relatively little damage to the financial industry, especially banks, by bank lending to directors or entities that directors have an interest in. History around the world has shown that society has lost a great deal of money when an owner of a bank lends to entities in which he also has an interest. So that is all you can go by. You know, any system can be abused. Any group of people can get in collusion.

In the old days, not very long ago, 60 years ago in Canada, banks were actually if not outright controlled, they were really run by part of the board. The chief executive officers were really the directors. The employees of the bank, full-time employees, were really only operating officers. And gradually that power of the board to influence the bank--well, go back to before the turn of the century, when America and Canada were industrializing. I mean, then people realized access to big capital was power. That is why Morgan bought Banker's Trust, Equitable Trust, two or three life companies. Once he had those, he bought half the railroads in America, U.S. Steel, Inco, Western Union, International Harvester. I do not know what he all did not own. But there were others just like him. I know there was a Canadian in Peterborough who had a big influence. He owned Canada Life. I have forgotten the name. Anyway, there was a book written about this man. He was very powerful.

And that was a concern. That is why--because in a way, when you had those powerful owners it made the financial institution more competitive, but all of commerce became less competitive. So in America they developed laws to try and separate business and banking, and in Canada the banks, anyway, which in those days were the dominant providers of money--the Bank Act gave them rules (a) as to who could own a bank and (b) what the bank could own. So through the Bank Act they tried to separate it. They never applied those rules to trust companies because in those days they did not have a big enough block of money to really be of concern.

Meanwhile, even in banks where there was not a dominant owner, power was gradually shifted from the directors to the operating management, so that the directors are more an overall governing force to make sure that the institution is prudently run. They do not really get involved in specific one-on-one decisions. And that worked fairly well through the fifties, sixties and seventies.

Today, I do not think the concentration of financial assets in banks is as dominant as it used to be because our size of assets, say, relative to the credit union movement or relative to trust companies, is more in balance. You know, we have, say, \$120 billion in personal deposits. Credit unions and trust companies between them, \$110 billion. So the banks really are not the only providers. Even the government has \$80 billion in individual savings in directly owned securities. So you look at all that individuals own or have on deposit or in government securities, and then in pension funds and stuff they have another \$160 billion. So the banks are not as dominant in terms of individual savings as they were once upon a time.

In addition, you have the international capital market, which is now so linked to the domestic market that it is hard to tell whether a borrower is using the Canadian market or the international market. So again, access to money--we are not the only provider of money. We do not have that kind of economic power any more.

But still, I think the principle of separation of the commercial and financial sectors, which has had validity since the

1920s--I know it is argued that when owners own financial intermediaries they can fire management, so they can get better management in the financial intermediary, but who in the hell will fire the owner if he is not--it is like having a benevolent dictator. It is very efficient, but what do you do when he is not so benevolent?

That is why we have inefficient things like parliaments. They have trouble electing a speaker! But that is the safety of society. So I do not know, that is a value judgment.

Mr. Chairman: To bring that very interesting history up to date, Mr. MacIntosh has kindly given us a statement from Mr. D.A. Lewis from the Continental Bank of Canada, which has just been issued, indicating that they are joining Lloyd's Bank. Lloyd's Bank will be offering the shareholders of the Continental Bank between \$15.25 and \$16.25 a share for shares that have been marketing recently for \$11, and the Continental Bank hopes to continue to serve all its customers with the present facilities that they are presently offering.

Mr. MacIntosh: Well, my worst fears are confirmed. We only have 64 members and we started with 65 an hour ago!

Mr. Korthals: There is concentration for you!

Mr. McFadden: Could I ask one final question?

Mr. Chairman: Yes.

Mr. McFadden: It relates to loan losses. We have heard various pieces of information here about the size of loan losses by various financial institutions. One of the figures that we received is in the period from 1977 to 1981, the combined loan losses of the chartered banks came to about \$2.5 billion, and in the period from 1982 to 1986 inclusive, the six chartered banks lost--the six major chartered banks lost a total of \$13.5 billion, which I guess is about a five-and-a-half-time increase between those two five-year periods.

I wonder if you could give us some idea as to the reason for the increase. I imagine they are all tied in with the western economy and the international market and so on, but I am just curious because there have been various allegations and points made here and I just wonder if you would be able to tell us the reason for such a large increase in the bank losses over this period.

Mr. MacIntosh: Yes. In two words: economic conditions.

From 1970 to 1973, the price of oil escalated from a few dollars a barrel to \$40 a barrel U.S., and the result of that was a huge inflation of commodity prices, expectations that inflation was going on forever. So there was a rush on the part of people to get into debt and into real assets, because if you are going to have inflation--I mean, all over the world we know that the answer was not to be a lender but a borrower. So people borrowed and borrowed and

borrowed. And that includes governments, of course, but it also includes corporations and individuals. Everyone got into debt and tried to get further into debt.

And it is a pretty simple thing. Lots of people had enough brains to buy a house when they were going over their head to start with because as it worked out, with inflation they got skated on side. Well, we all tended to believe that it was going to last forever, and I have to acknowledge that bankers got drawn into that assumption about the world too, which proved to be invalid. I guess if you could say anything, it is that bankers ought not to maybe have been drawn into those assumptions like everybody else, but they were; they are humans, I think. Mostly.

And if you look back at the worst situation--and then of course the price of oil came down so that assets acquired, especially in that industry but in every other related industry where there had been inflation, all those assets acquired and the expectations of income did not materialize.

Everybody talks about Dome. Well, if you look back only five years, the Dome financing originally done was based on a very calculated assumption about what was going to happen with the price of oil down to the year 2000. And it was all documented by the Government of Canada and the Government of Alberta in an agreement of, I think it was, September, 1981, in which they spelled out what that price of oil was expected to be out to the rest of the century. And you know what it was going to be: it was going to be \$58 a barrel U.S. by right now. And what have we got right now? Thirteen and a half to fourteen dollars a barrel.

And people believed those expectations. Corporations believed them, bankers believed them, governments--and they were wrong. But governments--it was on the record. I mean, the Government of Canada promoted the takeover of Hudson's Bay Oil and Gas with financing of \$4 billion and thought it was a great thing to do.

But everybody is right by hindsight, and even the people who did those things then and promoted the NEP in Ottawa are now wise after the fact. They forget the fact that the business community operated on assumptions that they made. True, we accepted the assumptions in the financial industry. Not just in Canada, you know; this is worldwide. After all, the Canadian banks have only somewhere between four and eight per cent of the international debt. It is not as if we had done something unusual that was not done by everyone in the world. Now it is going to take some time to wind their way out of it.

But the fact is that the loan losses--you said, what was the cause. Well, the economy was the cause. And the problems in this country domestically in western Canada are worse than they are in the international--the provisions are greater, relatively, in western Canada today than in anything the banks have internationally. And it is all very well to say by hindsight, well, you should never have lent

that money then. What kind of criticism would the banks have gotten then if they had not then been lending money? It would have been, "There you guys go, you see; you will not lend to business."

Mr. Ashe: Mr. Chairman, a supplementary.

Mr. Chairman: Well, I do not think I can allow a supplementary now because we have got about seven minutes left. Mr. Foulds has a question, Mr. Haggerty and Mr. Bond.

Mr. Foulds, very quickly.

Mr. Foulds: Well, actually it is interesting, though, that you were willing-the banks, and the government encouraged you--you were willing to lend to Dome at the very time that you were calling in loans from farmers. And that is the public perception, that banks by and large are willing to lend to the high rollers, and yet they are the institutions that have been around the longest, and frankly that Canadians have the most trust in, but you are not willing to lend to small business.

Mr. MacIntosh: Well, Mr. Foulds, that is a misconception, frankly. The fact is that banks have a lot of money out in farm loans and small business loans that are slow, very slow, and the banks rights now are probably carrying at least 10 per cent of farmers in this country that have some degree of financial difficulty. The banks do not want to end up in the farming business. What good is that? And they are carrying a very large number of farm loans in this country, and here in Ontario, that they would rather not have to be carrying right now. And that is just as true of those loans, or even more so, than it is of the Domes.

Mr. Korthals: If the price of farm products--if you could be sure that they would go up tomorrow, next year and the year after, you would be better to carry them. But if you are not so sure and you think they may go down for another two years, are you not better to suggest that he salvage what equity he still has than to ride himself into the--to be flat broke? And this is a hell of a problem you have in advising a customer.

Mr. Foulds: Oh, sure. And it is a hell of a problem that the country has in terms of whether those activities remain in production. I mean, I understand that.

First of all, let me . . .

Mr. Korthals: You know, there was quite an article in the *Globe* by a professor from UBC. I do not know if you saw it.

Mr. Foulds: No, I did not.

Mr. Korthals: It was on Saturday, "What Should Canada Get out of Farming?" And he computed that at the moment our total subsidies to farming came to \$32,000 a farm. So that is one hell of a

subsidy, if he is near right.

Mr. Foulds: First of all, let me congratulate you on your spirited defence of the banking industry. It sort of belies the common perception that bankers are staid and not particularly humorous.

Mr. MacIntosh: You are speaking about Mr. Korthals!

Mr. Foulds: I am speaking about both of you, obviously. And also, let me congratulate you on the readability of the brief. The brief I found one of the most readable that I have encountered, and I am not an economist and I am not an expert in the area.

You say a couple of times in the brief that it is important that competition continue in the various financial sectors and various portfolios, if you like. What I find difficult to reconcile is that philosophy with the idea that in fact there is not very much competition in the small loan business. You yourself indicated that it is only the big six banks by and large that are in that business, and you very carefully outlined the difference between loaning and equity capital.

Do you have any suggestions for us about how we get more people into the small loan business and how you could devise reasonable ways of providing equity capital for small business, the half-million dollars and under? Now, you have got a wealth of experience. Your industry has a century of experience. Presumably you have some ideas on that.

Mr. MacIntosh: Those are really tough questions. We generally do not believe that the financial system should run by more intervention by government. If people want to go into that marketplace, they can do so now freely and banks would--I mentioned the big six. As far as I am concerned, all 65 of our members have the power to do that if they wish to do so. So do the credit unions and so forth.

I suppose you could provide tax considerations which would be advantageous to provincially controlled corporations for purposes of risk-capital taking or venture-capital lending. But I would say to you, Mr. Foulds, that I am familiar with quite a lot of the venture capital operations in this province, other than through banking, and maybe it would be worth your while to consult the--there is an association of venture capital companies in this city, and there are a lot of them. I think there are 100 of them, and some of them have very considerable resources. I mean, they have access to not only tens of millions but hundreds of millions of dollars in some cases, and my impression is that they are always roaming around in this province looking for deals, looking for venture deals, and that they do not have enough deals. There is more money available for ventures here than there are viable ventures, in their view.

Now, sure, they make mistakes sometimes. But it might be worth your while consulting with those people. Offhand--I guess I

had better bow to Mr. Korthals. Maybe he has some better creative ideas than I do on this.

Mr. Korthals: Well, it would be a big decision to make for the community as a whole to say that everybody has the right to start a business, whether or not they have any money to start with, and the state will provide a mechanism to make that possible. It was not such a big problem in the 1950s and 1960s because not many people started businesses, because big businesses were growing. It has really become a bigger problem today.

The other aspect of the problem is, many of these businesses are started by spouses, because they are more confident in their ability and want to realize their potential, I guess, because the community has changed. And there is another problem because a spouse starting the business often has a spouse with a reasonable net worth who is not pledging it--it is the bank that is going to put up all the money. And I think that is something for the partner to do.

But I think that is something for Parliament to decide, that everybody, every citizen in Ontario has a right to start their own business and some vehicle will be found to give them some seed money. And how the state recovers that seed money, I have no idea. Bob's idea of talking to the venture capital association might be good.

You are going to have to ask for--anybody that accesses that pool is going to have to pay it back at least double plus interest, because that is the kind of loss experience you are going to have. But if that is deemed to be what the community needs and ought to have, then I think a way can be found, and we should have a committee looking into it.

Mr. Foulds: Spare us!

Mr. Korthals: But for banks, it is very important that those that start have a very significant stake in what they are starting, in order to minimize our losses.

Mr. Foulds: That is probably a fair comment that society would say as a whole, too. I think that a lot of the argument that arises, arises because people do not realize how little capital a lot of people have when they want to start a business. Certainly when I have run into that, that has always been the major problem.

I just wanted to ask one other question. How much--I did not follow you--very quickly, and it is just a matter of curiosity. I have not followed the most recent developments. How much is outstanding to the Canadian banking industry by Dome Petroleum at the present time?

Mr. Korthals: Well, the four banks--first of all, a lot of the 65 have small pieces of debt, but the four big ones, it comes to about \$2.5 billion, approximately. Within a few hundred million.

Mr. Foulds: What's a few hundred million here and there, in the 1980s?

- Thank you. Thank you very much, Mr. Chairman.

Mr. Chairman: Thank you. We must bear in mind that we have another witness and our witnesses have to get away. So Mr. Haggerty, very briefly.

Mr. Haggerty: I have two questions. Whether they will be brief or not, I do not know.

I was interested in your "Bank Facts of 1986," and in particular on page eight, and looking at the period, I guess, of 1980, 1979-80 up to 1983-84, the increase in the number of deposit accounts and number of personal savings accounts, and looking at the wealth of money that perhaps the bank had to play with in that, is there any given reasons why there would be that large number of deposits in that particular area? Was it because everybody was jumping on the area of the high interest rates? We know that many of the persons who had purchased homes and had to have their mortgages renewed in that particular period of time when mortgages jumped from 11 per cent to 23 per cent, it had quite an adverse effect upon a number of the communities when persons had to lose their homes in that period of time. And yet when you look at the wealth that was generated in that area. . .

Mr. Callahan: What are you looking at?

Mr. Haggerty: Page eight.

Mr. Callahan: Roman numeral or. . .

Mr. Haggerty: I am looking at page eight.

Was that trend in the trust companies too, in the financial institutions and trust companies?

Mr. MacIntosh: Looking at the number of personal savings accounts in Canadian dollars?

Mr. Haggerty: That is right, and the deposit accounts too. The numbers in that period of time, the substantial increase in deposits in both sectors there and the capital that was put in.

Mr. Korthals: I think it was the time that the daily interest accounts were introduced, and a lot of people opened daily interest accounts in addition to their savings accounts that paid interest monthly. That probably is why that surge appeared.

Mr. Haggerty: Would that trend follow into the financial areas of the trust companies?

Mr. Korthals: I believe it would have, yes.

Mr. Haggerty: That is amazing when you look at the wealth that is entering.

Mr. MacIntosh: Well, that is numbers, not dollars.

Mr. Haggerty: Numbers, yes, but there are dollars on the other side. When you look at "\$1,000 and over," you notice the increased numbers in that too in--if it is a daily chequing account to that . . .

Mr. Korthals: Well, we were paying very competitive deposit rates then when interest rates were high, and a lot of money came out of the stock market and went into banks because the yields were so high on our instruments.

Mr. Haggerty: So we manufactured that and the side effects or the adverse effects of that--many persons lost their homes by it, did they not, when you moved it from . . .

Mr. Korthals: Well, all through the 1970s the savers got hammered because the rates they were paid were less than inflation, and the borrowers won because their houses went up faster than--and in the 1980s, the depositors got their revenge and they did very well, and the borrowers got hit.

Mr. Haggerty: In your agricultural loans, on page 11 of the same document, I notice there has been still a substantial increase, I guess, in the total there outstanding. In millions there, \$10 billion, I guess it would be. Were many of these loans that the banks had provided to the agricultural sector, were they backed up or secured by, say, the Farm Credit Corporation?

Mr. Korthals: The Farm Improvement Loan Act actually covered more equipment loans for farms, and I think it was a guaranteed vehicle, and I really--do we have the FIL's, the total for the industry?

Mr. MacIntosh: Farm improvement loans would be in these agricultural loans, but the FCC's own loans--Farm Credit Corporation loans would be not in these. I am not quite sure what the FCC loan numbers are now. I think probably about one and a half or two billion.

Mr. Haggerty: But the banks really administered it. They had to fill out the application forms, and based upon your judgment, the information that was picked up by the person requiring or asking for a loan or that, much of the decisions were based upon that information. But would that not, though, looking at it from my experience with some of the farmers in my particular area, I feel that by having these loans perhaps secured by the backing of the federal government, encouraged your banking officers in the local banks to forget about whether they could afford it or not and they said, go ahead, we have got nothing to lose. I sense that . . .

Mr. Korthals: The percentage of loans that would have the government guarantee in this total would be relatively low. The CBA will get it for you, I am sure, but I believe it is in the 15 per cent range.

Mr. Haggerty: Because I know in a couple of instances in my area, for example, when the bank found out that they were in difficulties, how the bank got out of it, they went to the federal small savings--or small loans development bank there, got the loans from them, bailed out the banks, but the guy still went under. But the banks were clear; they never lost a cent.

And one of the things that bothered me the most was when there was--to refinance the loan, there was a personal loan or guarantee from the individuals that were caught in this, and now the banks still include that into the--when they had the federal bank take it over, they did not include the personal loan.

And I will tell you, when a person comes into your riding office in that state of mind and threatens, they say "I have a notion to go down and blow the bank up or go in and shoot every one of them," you know, it is pretty tough for a member to sit there and say--you know, what should you do in this instance? The bitterness that followed because he was led into this trap, you might say--I feel this is what happened to a number of the farmers across the Province of Ontario, because that security by the federal government involvement, saying to the bank manager "We have got nothing to worry about; it is no black mark against me if I take this route." I kind of sense that perhaps the banks are much at fault in this particular area, that many of these good farmers went down the tubes.

The other area I was concerned about was the corporate concentration, and I think Mr. Callahan--following his comments, where you have directors, say, at the bank and maybe directors in the other financial institutions, and they may be serving three masters or four masters, in a sense, and it comes to be a matter of in some cases there have been hostile takeovers in the financial institutions. They call it corporate raiders and that. And they seem to be--when this takes place, the rules seem to be stacked in favour of the person that is making the application to take over. What are your feelings on this?

The more I look at the witnesses appearing before this committee, there is some indication--because in a takeover, the one that has initiated it, perhaps there are not the financial funds there to take it over and the run is to the bank. Is there a conflict of interest in this particular area, that some of your directors may be involved in one or two financial institutions, to say yes, we will take this route here? I mean, you seem to--I think, Mr. MacIntosh, you have kind of brought to my attention that maybe there was resentment that the banks and the trust companies are not treated alike . . .

Mr. Chairman: Perhaps we could have a quick answer to that.

Mr. Korthals: But a bank director cannot be a director of another bank or trust company.

- Mr. Haggerty: He cannot?

Mr. Korthals: No. So you can only be on one financial institution as a director.

Mr. Haggerty: That is the first question.

Mr. Chairman: Gentlemen, I appreciate your time constraints. I think Mr. Korthals has to make another speech in 20 minutes downtown. So I appreciate your being here, sharing your information with us. As I said at the conclusion of your opening remarks, it was a spirited presentation and it has given us a lot of food for thought. Thanks very much.

Mr. MacIntosh: Thanks for your courtesy in hearing us. Thank you.

Mr. Chairman: We have now Mr. Walter Lumsden, the Administrative Assistant to the Canadian Director of the United Food and Commercial Workers' Union.

Mr. Lumsden, thank you for coming. Welcome. We look forward to your presentation.

Mr. Lumsden: Thank you for having us. This is brand new to me. You asked for 25 copies. Do you want them before I read it or after I read it?

Mr. Chairman: Mr. Carrozza can perhaps distribute your copies as you are leading us through your brief, and then members will pick up some questions, likely, if they listen to you, and we go on from there.

Mr. Lumsden: I hope I can answer them.

Okay. First of all, I am with the United Food and Commercial Workers' International Union, or UFCW, and we are the bargaining representative for over 150,000 workers across Canada. While the majority of UFCW members work in the retail and manufacturing sectors of the economy, a growing number are employed in various service industries, including some 1,500 in banks, credit unions and caisses populaires. There is an appendix on the back that lists the various groups that we do have.

The UFCW welcomes this opportunity to express our views to the standing committee examining corporate concentration in the financial services sector. As an organization committed to the development of equitable social and economic policies, we are deeply concerned about the trend towards greater concentration and the potential it brings for fewer jobs and serious abuses of power.

The main purpose of this brief is to comment on key developments linked to concentration in the financial services sector, as well as to make recommendations for regulatory action. We strongly believe that the time is long overdue for the government to implement policies to protect consumers and employees from the abuses that can occur and are occurring as a result of excessive concentration.

In a brief to the House of Commons Finance Committee in 1985, Cadillac Fairview's president, Bernie Ghert, warned, "In the absence of any controls over conglomerate ownership, within a decade or so both the financial and non-financial sectors will be dominated by less than a dozen very large groups that could wield enormous economic power." Already tremendous concentration exists among Canada's financial institutions. It is estimated that the ten largest deposit-taking institutions net about 90 per cent of all deposits taken from the public. While federal laws limit ownership of chartered banks to 10 per cent, no such limitation currently exists for non-bank financial institutions. As a result, control over most trust and insurance companies has fallen into the hands of a few individuals and corporations.

Of particular concern to the UFCW is the number of financial institutions that have been taken over in recent years by conglomerates that also control substantial industrial and commercial undertakings. Striking examples include Trilon, part of the Bronfman empire, which acquired Royal Trust Co. Limited, Royal LePage Limited, London Life Insurance Company and Fireman's Fund Insurance Company of Canada. When Imasco took control of Genstar Corporation, it captured the country's largest non-bank financial institution, Canada Trust Co. Mortgage Company. The Jackman group, which includes an insurance company and a financial company, combined National Trust and Victoria and Grey Trust Companies, and Power Corporation has for some time controlled various financial institutions including Montreal Trust Co. and Great West Life Assurance Company.

The report of the Ontario Task Force on Financial Institutions, the Dupré Commission, released last December, expressed a deep concern for the need for public confidence in the solvency of the financial system. One of the problems in gaining this much-desired confidence is that concentration simply does not inspire it. For many Canadians, bigness is often associated with distrust, unfairness and irresponsibility.

Unfortunately, there is abundant evidence that shows the public has every right to be worried about the ownership structure of financial institutions. Within the last five years Canada has experienced several costly bank and trust company failures. According to David Slater of the Economic Council of Canada, one-half of these failures can be directly attributed to the fraud or self-dealing of the owners of these institutions.

Peter Pocklington's Fidelity Trust is a case in point.

Following his takeover of the trust company, he sold to it millions of dollars worth of highly speculative properties that he owned, including an empty Gainers Meats building, for \$10 million. The trust company's losses on the buildings were so severe that about two years later, Fidelity's entire equity was wiped out and the company was plunged into receivership. Jobs were lost and public confidence in the system seriously undermined.

Genstar Corporation engaged in similar acts of self-dealing when it sold assets to one of its subsidiaries, Canada Permanent Trust. Fortunately, unlike Fidelity, the company survived. The point to be made is that such non-arm's-length transactions could have threatened, however remotely, depositors' funds and the jobs of a number of Canadian workers.

Banks, through financial holding companies, play their own versions of the self-dealing game. Interlocking directorships between banks and their main corporate customers have virtually institutionalized a form of conflict of interest. These cozy arrangements have led several banks to plunge their enterprises into risky ventures without traditional caution. For example, in the case of Dome Petroleum, five of Dome's twelve directors sat on the boards of banks or trust companies to which Dome owed money at one time or another.

The entire concept of the one-stop financial supermarket also creates the potential for conflicts of interest. Trilon, for example, is melding together the once separate functions of banking, insurance, brokerage and trust services in its bid to offer almost every conceivable financial product to the consuming public. Cross-referrals may bring about extra profit for the corporate owner, but the consumer may end up paying an overall higher price than otherwise would be the case.

Self-dealing considerations aside, the UFCW is concerned with the ownership of financial institutions by non-financial conglomerates at a second level. In our view, conglomerate ownership can engender an absence of responsibility towards employees and customers. Since the recent round of takeovers of financial institutions was fuelled by the profit motive--for example, Imasco looked at Genstar as a means of offsetting the decline in tobacco sales, its core business--it is unclear whether conglomerates will feel a sense of obligation to make them work in the long run. Although it is too early to measure the impact of recent mergers and takeovers of financial institutions on employees' job security, one can imagine a similar scenario to that which happened to two Argus subsidiaries. While Conrad Black and his fellow shareholders made huge profits from the Argus empire, the employees of Dominion Stores and Massey Ferguson fell by the wayside as casualties. Job loss as a result of duplication is also a distinct possibility.

One additional concern is that the new corporate entrants will feel less of an obligation to finance small business, farmers and

fishermen. Increased concentration will thus serve only to aggravate the current situation where the banks are willing to bail out Dome and their other large customers, but think little of charging the rest of us higher interest rates and of pulling the plug on small enterprises and individuals.

Recommendations for action. The demise of a number of banks and trust companies over the last few years, the near failures of others and the expensive bail-outs of still more, illustrate the need for tighter regulation of Canada's financial service sector. The UFCW agrees with the Dupré Commission that public confidence in the solvency of financial institutions must be of paramount importance in the formation of new regulations.

Most importantly, the federal and provincial governments must act to end the practice of self-dealing. The Dupré Commission calls for an outright ban on self-dealing or non-arm's-length transactions. The UFCW supports this recommendation, but fears it will bring forth problems of monitoring and enforcement. The most efficient way to prevent self-dealing is to place ownership limits on all financial institutions. In our opinion, widely held ownership would act to protect consumers and workers from the most serious conflicts of interest and also encourage public confidence in the financial system. We therefore recommend that the government extend the 10 per cent ownership rule to all financial institutions. Since controlling interest in all trust companies is already held by individuals or conglomerates, we recognize that such legislation would realistically have to be phased in over a reasonable period of time.

The savings of depositors would also be better protected if regulations were introduced to cut back on interlocking directorships. The UFCW therefore recommends that the boards of directors of financial institutions not include their major customers. A director's code of ethics should be introduced, with stiff penalties for those who operate in their own interest and contrary to the best interests of their depositors.

The financial industry provides an important source of employment in Ontario. According to the report of the Dupré Commission, some 198,000 people are currently employed by financial institutions across the province. Unfortunately, the majority of these workers earn relatively low wages and few benefits. Organizing drives have been foiled by employers who are willing to use their tremendous economic power to block attempts by employees to be represented by a trade union. The UFCW strongly believes that the Ontario government should encourage the unionization of workers in those areas of the financial services sector over which it has jurisdiction. First-contract legislation should be amended to allow for arbitration upon the request of either party. During subsequent rounds of negotiation, government policy should encourage the labour board to be more interventionist and more vigilant in its scrutiny of employer bargaining.

We thank you for asking us to present the views of the United Food and Commercial Workers on this important issue of corporate concentration in the financial services sector. Although our submission has touched upon only a few of the areas which are currently under study by the standing committee, we hope our comments and recommendations will be of assistance to you in formulating government policy on corporate concentration.

Mr. Chairman: Thank you very much. Dr. Stephenson has a question.

Miss Stephenson: I just need a little factual information. The statement "the majority of the workers earn relatively low wages and few benefits" is a pretty bald statement. Are you saying that 75 per cent of the workers in financial institutions earn less than their counterparts in equivalent kinds of roles in industry?

Mr. Lumsden: I certainly believe so, yes.

Miss Stephenson: Well, do not tell me you believe so. Where are the figures to--where can I find those?

Mr. Lumsden: I would have to send you some collective agreements, I suppose, that we have, and lay out to you the numbers of employees that work in the financial institutions at the low rates of pay. But by comparison to secretaries, for instance, they are lower-paid. The tellers and the people working in the loans departments of these institutions are lower-paid than a lot of clerical staff now in most firms.

Miss Stephenson: In most firms or in government?

Mr. Lumsden: Most firms that we deal with.

Miss Stephenson: Okay. That is the kind of information I would like to see. And you say "few benefits." Are you saying they do not have the ordinary benefits that most employees even in small industry have?

Mr. Lumsden: The experience that I have--benefits per se is dental and everything. They are very well taken care of in the banking institutions. So I apologize for being reasonably unfamiliar with this subject that we are dealing with. We were asked to make a presentation and we had to have a lot of people have input into this document, and I am not going to profess to be an expert on the banking industry.

Miss Stephenson: And the financial institutions are not your area of activity primarily.

Mr. Lumsden: No, they are not.

Miss Stephenson: Right.

Mr. Lumsden: I apologize for that.

Miss Stephenson: But could we have that information?

Mr. Lumsden: Yes, certainly.

Miss Stephenson: Thank you.

Mr. Chairman: Dr. Henderson.

Mr. Henderson: Thank you, Mr. Chairman.

I was listening and I quickly glanced through your brief to try to improve my understanding of exactly how the interests of workers are mitigated against by corporate concentration, and the three arguments that I think I can define in what you said are that there is a loss of public confidence as a result of corporate concentration, there are--which may or may not be so; I suppose it depends who you talk to or whose confidence you are thinking of. That there have been business and institution failures, to which the counterargument, I suppose, would be that you will have just as many failures without corporate concentration, and even when companies do fail there is sometimes, if not often, a protection of the seniority and jobs and so on of workers. And third, the question of cozy arrangements that seem to contain conflict of interest. And I suppose you could get into a whole debate about that.

I am still not really sure that I understand from your brief or your presentation how the interests of workers are compromised by corporate concentration. I am not saying they are not. I just need more help in understanding how they are. I do not fully understand.

Mr. Lumsden: Obviously, as a union representing workers, we are concerned when anything occurs that could result in a loss of jobs. What we are talking about is a coming together of different types of companies, in some cases with the same type of expertise, which would obviously result in a loss of jobs. If you had a banking institution and an insurance institution that came together, some of those employees would not be needed any longer and we see a loss of jobs as a result of it.

Mr. Henderson: Only because the combined operation is presumably more efficient, but unless there is a net loss of business, there would still be a need for just as many employees to serve the customers. If a trust company and an insurance company come together, presumably they do not lose business as a result of that; they pool their employee pool and they pool their customers, if you like, and the business expands. Would that not be so? I do not understand why there would necessarily be a loss of jobs.

Mr. Lumsden: It has not been our experience any time there has been a coming together of any type of a business, that--when two businesses merge there is always the need to remove employees. That has always occurred in any closings of business portions and

merging of companies. There has always been a loss, a lot of times at the top end, I suppose, but a lot of times at the bottom end as well.

A lot of these institutions could tend to be very top-heavy and there would be a loss of employment there for sure, but at the bottom there historically has always been a loss whenever there is a merging. And even with the same employer merging two locations, there is a loss, and I would agree with you, perhaps not a loss of business.

Mr. Foulds: If I could intervene there, that tends to happen in what is loosely called the management category. That is, not necessarily managers but people--I know, for example, with UTDC and its transfer, the people who are getting hit are the designers, the engineers, that kind of category in that sector, and I would think the same would be true in a service sector like the financial sector, that it would be even the tellers and the front-line people that would suffer as well.

Mr. Lumsden: We believe so. We believe strongly that that would occur, yes.

Mr. Foulds: Historically, that has been your experience?

Mr. Lumsden: Yes. In any kind of a merger of anything.

Mr. Henderson: Mr. Chairman, if I could just comment. Then I will let this matter rest. There was an announcement on our desks that presumably we have all received having to do with the Continental Bank of Canada, which specifically assures everybody that there will be no loss of jobs. Now, maybe that is false. Maybe it is specious or something. I guess I just need to be convinced about that.

Mr. Lumsden: We over bargaining tables are often guaranteed there will be no loss of jobs when various technological changes occur. And I suppose when you deal with Harry or Betty, Harry or Betty do not lose their job, but through attrition those jobs are not replaced, and through encouraging early retirement, people leave. You end up with less employees of that company, but an individual did not lose their job per se. That has been my experience when I am guaranteed no loss of jobs.

Mr. Henderson: Maybe you have created jobs in the high tech industry or something. It is difficult to--one does not want to be simplistic about it.

Mr. Lumsden: Yes, and I appreciate that you have to look at a broad view and I am dealing with the individual that I have to go to and say, sorry, you have not got a job tomorrow but someone down the road got your job somewhere else. The coming together of these financial institutions I do not see a replacement for, however, and therefore we felt that we should make a point that there should be some consideration for jobs when you are dealing with this subject.

Miss Stephenson: Can I just ask one question? Does the parallel at the industrial level really follow within the service sector? Because if for example two trust companies were to merge, the director customer service which is provided by those people who work at the counter and work at various kinds of direct service to the clients of the company, those roles are not likely to be reduced. The aim of that merger obviously is to try to increase the capacity of the company to deal with those roles, but the roles are not likely to be decreased.

Are you saying that in your experience when there has been a merging of trust companies, because I guess that is really the kind of thing we are talking about at the moment--we have not looked very carefully--what was the experience when the Toronto Dominion Bank was merged? Does anybody remember? I do not. That was a long time ago.

Mr. Chairman: There is nobody that old here.

Miss Stephenson: Well, I am old enough to remember when it happened but I am not old enough to remember what did happen.

Mr. Foulds: What I think happened--it is actually a very good example, Bette. I think what happened is, one of the banks closed. Like, there would be a Toronto Bank in Thunder Bay, the Port Arthur side, and a Dominion Bank, and I know one of them closed, and in the transfer. . .

Miss Stephenson: But indeed, in fact, there was an increase in the number of total banks in the province eventually. It did not happen immediately.

Mr. Foulds: But what happened in the case of that merger is that the employees--at one bank there were fewer employees to manage the remaining bank, the remaining outlet.

Miss Stephenson: But if indeed there were not two outlets in a community--what I am talking about is the overall picture. Is that what happens? Is that what the experience is, with the merging of financial institutions at the front-line level? Forget about the management level because you are not concerned really about what happens to management. But at the front-line level, what happens?

Mr. Lumsden: I believe that we are concerned. I mean, jobs are jobs, and the workers that we represent eventually move up to those positions, and in financial institutions we have large arguments about in fact whether some of those positions that we are talking about should not in fact be in the union. And it is a lot of middle management . . .

Miss Stephenson: That has been an argument that goes on forever.

Mr. Lumsden: But it is the middle management positions that suffer when you get streamlining and merging these companies together, and that is where all these jobs are we are losing. We end up with tellers and nothing else.

Miss Stephenson: Well, I would remind you that the complaint that is made by many of those who examine the effectiveness and efficiency of many of our institutions and our business organizations, they tell us that we are far too heavy in middle management in North America and that we really have concentrated far too much on that, as compared to the Japanese, if you use that as a model. But if you say that the experience is that there has been that loss at the front-line service level--that was the question I wanted to have answered.

Mr. Chairman: I have Mr. McFadden, Mr. Foulds, Mr. Callahan and Mr. Haggerty, and now Mr. Mackenzie.

Mr. McFadden.

Mr. McFadden: Yes. Just two or three areas with regard to your submission. On page three, at the bottom of the page you mention the--under the heading "Problems of Concentration," "For many Canadians, bigness is often associated with distrust, unfairness and irresponsibility." I have gotten the image, at least with the financial services sector, that the reverse is true, that the depositors tend to want to be with the big institutions and have lost confidence in the small institutions.

Were you referring here to a general concept of bigness, or were you referring specifically here to the financial services sectors? Because I have had the idea because of problems with some of the trust companies that in fact--and you can look at what has happened to some of the smaller banks, the depositors have lost confidence in the small ones and have all been moving over to the six big ones, because they felt they were more responsible and more trustworthy.

Mr. Lumsden: Perhaps it is because of what has been happening. I think generally what we are saying is that the bank should be the place that I go to for my loan, and I should go to an insurance company for this, and go and invest my money with an investment firm; that this coming together of all of these different functions is the bigness that I am talking about. I would hope that the bank would be big enough that I would feel safe, but that it was strictly for banking purposes. So that if I went there personally for a loan of \$50, it would be as important as someone going there for \$5 million or \$50 million or what have you. And so it is that bigness, I guess, that we are talking about, the coming together of everything and that they are going to lose track of my \$50 loan.

Mr. McFadden: Okay. So you were not referring per se to the chartered banks, the big trust companies. You were more referring to the supermarket . . .

Mr. Lumsden: Kind of situation, yes.

Mr. McFadden: Do you see any advantages with the development of this financial supermarket? I mean, it seems to me that what we are heading toward, and all of our witnesses indicated this, toward the blurring of the four pillars. Do you see any advantages in terms of one-stop shopping for the consumer, be they a small person up to a corporation, or do you feel that we should institutionalize the four pillars and not amend the existing legislation to facilitate any form of merging? In fact, would you go so far as to say we should toughen up to keep the four pillars firmly in place?

Mr. Lumsden: Yes. We believe that the four pillars should be kept in place. It is starting to appear as if the banking industry has become a great opportunity to make a lot of money, and we are getting all these private individuals getting into it, and I think the gentleman ahead of me indicated when you get this one person in charge of something it can be an irresponsible thing to do. So there is lots of money to be made. They are getting into it to make lots of money and, we believe, are not going to care as much about my \$50 loan. So, yes, the four pillars I believe to be important, particularly in banking, for the farmers, for the small loan person. It is getting away from being a personalized service.

Mr. McFadden: At the top of page seven, just to follow through from that, you mentioned that "the union agrees with the observation of the Dupré Commission that solvency of financial institutions must be of paramount importance." Now, we have also heard discussion here about the importance of competition in terms of the value that has to get better services for the consumer, more competitive rates, a broader range of services. And we have also had the question of concern about concentration.

Are you saying that if we were to choose between competition and concentration and solvency that we should first be concerned with solvency, and then deal with the others after that? Is that what I am to understand by the words "paramount importance"?

Mr. Lumsden: Yes. As I indicated from the outset, we had some difficulty with this, and I cannot profess to be an expert of the banking industry at all, in how they structure it. I can only talk about how I feel and how our people feel, and we feel it is paramount that some confidence has to be put back into the industry. I suppose then that if I say that is the most important thing, and I believe that is our point that we are trying to make to you, that if to do that you think in your wisdom that there should be a merging of all of these institutions, I have lost one of my other arguments, which was second important to me.

Mr. Foulds: You do not want to lose that one.

Mr. Lumsden: But confidence is important, given a choice,

for the good of the country, I believe. Confidence back in the industry. But we do believe in competitiveness as well, and we are concerned about the farmers and the little guy, and the Peter Pocklington kind of thing we do not like. We feel that he gained something out of that transaction and he only got into it to make money.

I guess the concept of the bank manager that we had many, many years ago tends to be going away. It is now a big businessman making lots of money, instead of someone that is there genuinely and sincerely concerned about every one of our problems, listening to us and trying to help us. And I know a lot of people in the banking industry and I do not want to paint them all with the same brush, and they are not all like that. But I think as an overall picture, that seems to be what we see coming anyway, from our. . .

Mr. Chairman: You really mean trust companies, though, do you not?

Mr. Lumsden: Yes. Trust companies are not nearly as--in our view, do not nearly have the ear of the public when they come in. We prefer the banking industry stay the banking industry.

Mr. McFadden: One final question I had. On page eight you make the point about bank boards and so on. We have been discussing with all of our witnesses the question of the directors and what we do. There seems to be a problem here, in the sense that from the point of view of the shareholders of the bank and from the point of view of the depositors, you want the best possible board you can get, so that they work to protect the interests of shareholders and depositors. I know historically the legal responsibility of directors has been to look after shareholders' interests. I think there is more and more a tendency here to believe that directors also have a responsibility to the depositors. You have made the point, though, you think that directors should not--would not be involved with, I guess is what you are getting at, with major customers.

The question I have is, we seem to have a contending problem here, the same with the paramountcy in solvency and competition, and how you deal with that. The other problem we have, I would think with all the financial institutions, is getting on the board of directors people of experience and knowledge who know how the world economy is going, can help the bank in terms of advice, can advise the board and the officers of the bank on trends in lending and the best way to protect the bank's interests and so on.

How do you think we are going to deal with this? I take it what you are suggesting is we should--I do not know if you are saying a blanket prohibition or not, but it just strikes me there is going to be a bit of a conflict in finding directors who are going to have the kind of experience you would expect to have on a large financial institution if they have no business connections.

Now, I suppose what you can look for, obviously, is directors who do not deal with that particular bank, and I suppose that is the

one route. But I am just curious if you had a chance to consider the pool of directors and the kinds of people that would be available to do what I think should be demanding work. If it is not demanding, then they are not doing their job, but hopefully it is a demanding job, and where are we going to get the experienced pool from of people to do it?

Mr. Lumsden: I suppose our suggestion of a code of ethics would allow us to back off one and go to the other one, but we certainly felt that the major customers of that bank should not be on it. I would like to think that there would be enough experienced people that the bank could operate with a board of directors that did not necessarily have major customers on it, and that the trust companies could operate the same way, I suppose. But the code of ethics--and we did not suggest it and believe that you were going to be able to come up with something like that very easily as a committee--but perhaps that would be a way of getting around it, so that there could be some assurance that they were not operating in their best interests, and in a result harming the depositors and the rest of us. So the code of ethics could circumvent the difficulty of having those people on there.

And the previous submission helped me somewhat in that I think they convinced me that one particular director was very insignificant, but it would be very difficult if they were all borrowing money from the bank, if the whole group of them were. So I would find that very distasteful, and therefore perhaps a code of ethics would help that situation, if you were able to develop something like that.

Mr. McFadden: Hopefully, yes. Thank you very much.

Mr. Lumsden: No one said it would be easy.

Mr. Chairman: Mr. Foulds, Mr. Callahan, Mr. Haggerty and Mr. Mackenzie, and do not forget, folks, we have to be back at 2:00 sharp.

Mr. Foulds: I will try to be very brief, and I will ask this question to Mr. Ortlieb next week as well.

To your knowledge, has any union representative ever been asked to be a director of a financial institution?

Mr. Lumsden: No. I knew one that asked to be, and was turned down!

Mr. Foulds: Because we have heard before the committee that there are difficulties getting directors for many of these, and it seems to me there is a wealth of some knowledge of certainly some aspects of industry, trade, commerce, that is not being tapped.

Mr. Lumsden: That is correct. There has to be . . .

Miss Stephenson: Several wells, not just one.

Mr. Lumsden: Yes. There has to be several wells.

Mr. Foulds: I notice that right at the beginning you indicated that you have about 1,500 members in banks, credit unions and caisses populaires. Are you trying to--are you actively trying to expand that number at the present time?

Mr. Lumsden: Yes, we are. I will be careful.

Mr. Foulds: Are these--and I have not had time to look at Appendix A carefully--are these mostly in Ontario at the present time?

Mr. Lumsden: There are quite a few in the Province of Québec. There are several in Ontario but the majority of them are in the Province of Québec.

Mr. Foulds: In Québec. In caisses populaires?

Mr. Lumsden: Yes.

Mr. Foulds: Okay. One of the things that I found intriguing is that your presentation and the presentation of the previous presenter coincide on one point, and that is there should be the 10 per cent limit on ownership in all financial institutions.

Mr. Lumsden: I was not here for that portion of his presentation, but that is great.

Mr. Foulds: It is an intriguing alliance on that one point.

Mr. Lumsden: Perhaps we are not that far apart.

Mr. Chairman: It is an argument the banks would not have been making a few years ago.

Mr. Foulds: Yes. In the committee if we get the argument from a number of sectors in the financial sector, that is one that we should pay some considerable attention to.

The only one other question, Mr. Chairman, and it is a question that I think has been a problem to all members of all parties, and that is the question of access to loans and the financing of small business, farmers and fishermen. Do you have any suggestions for us about how that could come about? That is, that seems to be the sector which is most deprived of capital for expansion and for development, and I just wonder--I mean, you seem to indicate any amalgamation or conglomeration will not increase that. Are there other ideas that you have?

Mr. Lumsden: No, and I am sure that my responses to that area of the whole question are very simplistic and sort of motherhood kind of things. I do not have a solution to that. I think a broader

knowledge of the banking industry would be helpful. I mean, I can only say that I just think that there is less personal contact when you get this merging together of all these firms by people that are interested only in making money.

Mr. Foulds: In your experience, though--you have some experience with the caisses populaires in Québec. Do they make that kind of financing more easily available than do . . .

Mr. Lumsden: I do not know.

Mr. Foulds: You do not know. Is there any way that . . .

Mr. Lumsden: I deal with the Bank of Nova Scotia and I think that they do. I mean, I believe that is what our union is saying, that--leave the banking to the banking industry.

Mr. Foulds: Okay. Thank you very much, Mr. Chairman.

Mr. Chairman: Thank you. Mr. Callahan.

Mr. Callahan: Yes. I had asked a question of the Bankers' Association, about the question of interlocking directorships. I see that as a very real concern, either actual or perceptual, and if we just look at the cross-ownership and deal with that I do not think we are really going to solve the problem. But having asked the question of the bankers, I realized, almost rhetorically, that it becomes very difficult not to have this interlocking directorship because of the lack of number of people you can access to the directorships of companies.

You addressed that in your paper and I think you restrict it simply to interlocking directorships where there is a link between the business and the directorship they sit on. Is that basically your answer to that interlocking directorship, or would you rather see it go further to avoid the potentiality of conflict?

Mr. Lumsden: Perhaps I misunderstood. I did not think that there was an interlocking of directors between different financial institutions, banks for instance. I thought there was not that.

Mr. Callahan: No, but what I am looking at is--let us say that this committee or the legislature, as a result of the report of this committee, agrees that the cross-ownership of financial institutions buying or being bought by other types of operations was to be stopped. Would that be good enough, or would you have to go beyond that to make certain that the directors that sit on that financial institution are not in fact associated in a business that could use that directorship to its advantage to do all of the things that we consider to be bad and the reason why we are trying to eliminate cross-ownership? In other words, denying competitors' loans simply to put the squeeze on them, or agreeing to loans for their own company or some subsidiary of their company.

Mr. Lumsden: Yes. We categorize that as a conflict of interest in our submission.

Mr. Callahan: Well, it certainly is a conflict of interest, but the question is whether or not you--number one, whether you can control its actuality or even the more stringent question of potentiality. You talked about the financial institutions have to have the respect and the public out there has to see something that puts their confidence in it. Of course, if they see a director or many directors who are from other businesses on the board of that trust company or that bank, they have got to wonder what is going on.

Mr. Lumsden: I do not see it as an awful lot different than the conflict-of-interest kind of difficulty that you people have.

Mr. Callahan: There is a strong similarity.

Mr. Lumsden: I do not think that I see it much different. The financial institution is very important for this province and we should have people up there who are concerned with the wellbeing of the province and not necessarily their own wellbeing. Not suggesting for a moment that an MPP or anyone that had a business would necessarily be doing anything to the detriment of the country, somebody at some time shows that you should not have this conflict of interest, and I guess we feel the same about the people that are running our banking industry in the Province of Ontario.

If we cannot say that they cannot own a business that has a dealing with a bank, at the very least there should be some guidelines and a code of ethics and something set up that assures us and gives us some kind of a guarantee as best we can that while that is going on, they still have our interests at heart.

Mr. Callahan: Well, the difficulty I have is that if cross-ownership is inappropriate because a company owns X number of shares of a financial institution and therefore is entitled to vote X number of directors to run the company, how does it become any different than if those people are directors just because they happen to be the people who are invited to be directors? I really do not see that you--you still have the conflict problem if it is owned by another company, clearly, I would think. So you have the same type of conflict if you bring on an interlocking director.

I really do not see how you can solve--if you are going to solve either one of them. And I think there is a good argument made for the cross-ownership of financial institutions. But if you are going to solve either of them, you have to solve both of them through some mechanism, and that is what I am looking for. I do not know how you do it.

Mr. Lumsden: Yes. It would be very difficult. You know, you brought up an interesting point, that while I had no dealing with the bank I could perhaps prevent someone who needed to deal with the bank from getting it, who possibly was a competitor.

Mr. Callahan: Well, that is one of the issues that is raised by way of the trust companies, that officers have been before us with that concern. But as I say, I cannot see how you can do one or the other. If you stop cross-ownerships, which I am sure will be--probably already is the nature of the legislation we are talking about. I have not read it. But how do you get around the secondary, which is to me equally as important because it creates the same problem? I am looking . . .

Mr. Lumsden: I wish that I had a solution that I could throw out to you. I do not have one, other than the very simple one about the code of ethics, that could take any kind of a form. How you determine if a director has used his or her position to gain something that normally would not have been given, I have no way of knowing how that can be done.

Mr. Callahan: I mean, it becomes even more difficult because the director may very well be a major shareholder in a company that controls the shares in another company that controls the shares in another company and right down the line, and you would have one heck of a time trying to determine whether he or she was in a situation where they should be voting or not voting.

In any event, it raises a concern in my mind. I do not know whether it does in any of the other members of the committee's minds. It is a conundrum how you deal with it because I recognize the practical limitations to it. There are only so many good people out there that you can have as directors, but . . .

Mr. Lumsden: You have raised an interesting point.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: Well, I hope I am not going to be cut off again, but I was a little bit concerned about the--on page six of your brief this morning, it said that "cozy arrangements have led several banks to plunge their enterprises into risky ventures without traditional caution. For example, in the case of Dome Petroleum, five of Dome's twelve directors sat on the boards of banks or trust companies to which Dome owed money at one time or another." The question I raised before to the previous witnesses--whether I got a clearcut answer on it or not, I do not think I did--they said it was against the principles of their code of ethics, that there is not this crossover of directors sitting on the bank's side and sitting on the other financial institutions or in some other corporation that would be of benefit to them.

Now, the question is, is there any way that we can perhaps have a run-through here to find out just if there is that crossover? For example, the takeover of the Continental Bank this morning by Lloyd's of London Bank, I guess it would be, that Edper Investments has a 20 per cent interest in the Continental Bank, and if they have 20 per cent interest, then surely there must be some director from Edper

Investments sitting on that bank board there, you might say. So I think there is the conflict of interest there. Yet it was perhaps--maybe I am incorrect, but I was led to believe that through their code of ethics, this does not occur.

I suggest maybe we could have a run-through the mill there and find out just how this crossover is, if we can pinpoint it. If there is, then we have got a problem to resolve.

Mr. Chairman: All right. Mr. Mackenzie.

Mr. Mackenzie: Mr. Lumsden, I want to first thank you for what is a very, I think, good short brief. It comes at it from a little different direction than any of the briefs we have had up until now, and I find it useful.

A couple of questions I do have. The list of financial institutions, which does not cover a lot of people, but that you have listed is almost entirely in Québec, with very few exceptions. Is your union one of the major ones that is now attempting to organize in this particular area?

Mr. Lumsden: Yes, I believe so. The CLC has the Union of Bank Employees, that I see you also invited. They have obviously chosen not to be here. At the moment, they have the majority of the members in the Province of Ontario. We have worked very closely with them, as we have anywhere, but we just do not happen to represent those particular people.

Mr. Mackenzie: That is what I was wondering. Is there any particular reason? This still does not amount to a hill of beans in terms of percentages or numbers, but is there any reason you see why it has been easier for you to break through in Québec than it has here in Ontario?

Mr. Lumsden: No. I do not know because I did not deal with the Québec situation. I came from the Brewery Workers and that is where the Bank of Nova Scotia employees came from, and I have had no dealings whatsoever with those banks in the Province of Québec. Why it would be easier there, I do not know. Maybe the labour movement made a bigger push, perhaps.

Mr. Mackenzie: Did you have anything at all to do with the Visa campaign, other than the assistance that the various unions gave here in Toronto?

Mr. Lumsden: I had absolutely nothing to do with it. I kept a very close eye on it because I was negotiating with the Bank of Nova Scotia at the very same time. I did those five branches that you see listed there of the Bank of Nova Scotia.

Mr. Mackenzie: In relation to a question that Dr. Stephenson asked earlier, your own experience in terms of the five Nova Scotia branches, the wage levels of the employees that you were negotiating

for in there, were they low levels of pay?

Mr. Lumsden: Yes, they are, and there is this merit thing that you so often have to deal with, you see, and it is very difficult to get a handle on exactly what everybody is earning, even when you represent them, in this particular industry, because of that merit situation. I mean, we do not have time for me to go into it in great detail here, but you see when you deal with this merit situation, so many marks against you in the banking industry puts off an increase that would normally be granted to you now, and that can be put off for three months, four months, five months, whatever the criteria of the particular bank may be, and that becomes your date then for any future considerations of increase. And unless you want to strike them for the rest of our lives, we almost have to accept that situation at the moment. So what you almost have to do is take a comparison of Jane, what she made today and what she is making five years from now, and if it is any kind of a borderline employee, the wage increases just are not there.

Mr. Mackenzie: Can you, at least in terms of the Nova Scotia units--you have offered to give us what information you can on the levels of pay, and I have some awareness of what they are, having met myself with bank employees. But are you able to give us what you were faced with in terms of first organizing those units, in terms of wages?

Mr. Lumsden: Yes. I offered to send that information in and I definitely will do so, and I will try to explain to you what they were as individuals earning, and give you some percentage figures, and then what they earned when we were finished, and there is not a big difference. But the benefit package is coming back again to--what Miss Stephenson brought up; the benefit packages I could not find any severe criticism of because that was right up to the top.

Mr. Mackenzie: The other point I think you have dealt with; a question that Mr. McFadden raised with you is giving me at the moment a little bit of difficulty. Most of the points you have made in the brief I think are valid.

The question of boards of directors in financial institutions, and maybe we are reduced to looking at the guidelines, I am not sure. But I have some doubt that it would be possible to eliminate from the board of a bank, for example, business people whose companies might somewhere along the way be involved. I tend to have some sympathy with the argument that some expertise is needed, and I guess my real problem is that I am not at all sure the expertise on most of these boards should not be a heck of a lot broader and more representative of some of the social and other concerns of the community as well. I think it is a valid point that I do not know of a trade unionist that is on one of these boards or commissions.

Mr. Lumsden: Nor do I. But I do, as I say, know of one that asked. But I do not even know if there is a monitoring system of what these people are all up to that are on these boards, and that is

probably why we are talking about, very briefly in there, some code of ethics. I mean, I sit here and tell you that these directors are doing this, and they can sit here and tell you that those directors are not doing that. But is there anybody or any vehicle to determine if they are?

Mr. Mackenzie: A final question, I guess. Do you have any perception as to why probably the hardest area to organize in this province has been the financial institutions? Because they certainly are not making the wages--I am sure when we get the figures, and my own information clearly indicates that. But they certainly have also been one of the most difficult groups of workers to organize. Do you have any particular views on that?

Mr. Lumsden: I am probably glad that I hesitated before I started to answer you. I have feelings and gut feelings, but not to share with you at this point in time. It is a very difficult industry. It is a very tight-knit kind of group with a feeling of obligation by the employees on their employer. They control them and manipulate them very well.

Mr. Chairman: Thank you very much. Your submission has been extremely valuable to us in a number of ways, in giving perceptions as to how you feel things should be changed in the community. And I am fascinated by the fact that the only branch of the Bank of Montreal that you have organized is in Tweed, where incidentally there is a banking monopoly. Incidentally . . .

Miss Stephenson: You mean there is only one bank, the Bank of Montreal.

Mr. Chairman: There is only one bank in Tweed.

Mr. Lumsden: That is not representative of the Province of Ontario. That is just what we have.

Mr. Chairman: Thank you very, very much. I realize that you needed to pull a lot of information together to make this representation.

Just to correct one thing that maybe Mr. Mackenzie said. We will have a presentation from the Canadian Labour Congress a week yesterday. They are coming on the 8th of October.

So we will see you all back at 2:00 o'clock. There is a brief that has been distributed by Mr. Bond that it would be wise to take a look at before 2:00 o'clock because it is about Trilon Corporation and it will be useful in questioning them.

The meeting is adjourned.

The committee adjourned at 12:35 p.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

THURSDAY, OCTOBER 2, 1986

Afternoon Sitting



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Staff:

Bond, D., Research Officer, Legislative Research Service

Witnesses:

From Trilon Financial Corp.:

Lambert, A. T., Chairman

Hawkrigg, M. M., President and Chief Executive Officer

Cunningham, G. R., Executive Vice-President and Chief Operating Officer

From the Trust Companies Association of Canada:

Potter, W. W., President

Inwood, W. J., Chairman, Legislation Committee; Senior Vice-President,
General Counsel and Security, Royal Trustco Ltd.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

THURSDAY, October 2, 1986

The committee resumed at 2:05 p.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: Let us get started.

This afternoon we have the pleasure of hearing from the Trilon Corporation, and with us we have Allen Lambert, the Chairman; Melvin Hawkrigg, the President and Chief Executive Officer; and in the back, in the first row, Mr. Gordon Cunningham, the Executive Vice-President and Chief Operating Officer.

We have heard a lot about your corporation, sir, but we have not perhaps heard as much as we hope to have. We have a brief that you have given us ahead of time, but we certainly appreciate what you have to say today.

Mr. Lambert: Thank you, Mr. Chairman.

Also with us today is George Soteroff, who is with the Trilon and has participated in the preparation of our brief.

To give a little background on Trilon, we thought we would open with a few remarks but try to keep them fairly brief so there would be time, if you wish, for questions later.

Trilon Financial Corporation welcomes this opportunity to appear before your committee, and we hope our comments will be of assistance. I know that Mr. Cornelissen, President and Chief Executive Officer of Royal Trust Co. Limited, has also appeared before your hearings. Royal Trust Co. is a member of the Trilon group of companies, and my colleagues here today and I are in full support of Mr. Cornelissen's brief.

Trilon was formed almost four years ago to acquire and manage interests in financial service businesses and to conduct financial operations directly. It was our intent to bring together a group of companies which had the professionalism, the size and the resources to meet the changing needs of financial services customers and to compete effectively in domestic and world markets.

Our group of companies includes Royal Trust Co.; London Life, Canada's leading individual life insurer; Wellington Insurance, whose ownership was repatriated last year from the United States and who provide national property and casualty insurance; The Holden Group of Los Angeles, California provides voluntary supplemental retirement plans from the United States and was very recently

acquired; Royal LePage, which provides residential, commercial, brokerage and other related real estate services in Canada, and commercial brokerage services in the United States; and CVL Ltd., which is a Canadian vehicle and equipment leasing and fleet management company.

Each Trilon group company conducts its business in extremely competitive sectors of the financial services industry. While each group company may lead or may be striving to lead its industry sector by providing consumers with a broad range of innovative and cost-efficient services, none of the Trilon companies is dominant in size or market share.

During the course of its own development, Trilon and its group companies have had to deal with many of the same issues that have occupied the attention of this committee. One thing that we have learned from the trials of the recent past, Mr. Chairman, is that Canadians want a well capitalized and prudently managed financial system, a system which is at the same time still creative and able to meet their financial needs as they are today and as they may arise tomorrow.

We at Trilon believe the first priority for Canada's governments is to regulate the financial sector so that its soundness is assured, so that public confidence is maintained and accountability for those who participate is increased. But just as importantly, for the sake of our nation's financial future, government should be conscious of the need in the restructuring of our financial services industry to allow for its growth on a world scale. Our industry must also be stimulated to be innovative, fully competitive both in Canada and abroad, and not be inhibited in its ability to best serve Canadians.

The changing scene brings home to us sharply that the financial services marketplace has progressively crossed international boundaries over recent years. Today, the industry is truly global in nature, and for the most part its participants are world class.

In view of this, the challenge for Canadians and governments at this point in our nation's economic development becomes relatively clear: either we can be reactive and simply go along with the future as it unfolds, without the benefit of being able to influence or plan the changes, or we can take a pro-active stance. We can ensure that our legislation and regulation over the financial services industry is contemporary and effective, and we can also position ourselves in a planned and pragmatic way so that our financial services industry is aligned with global development now and in the future, and gives our Canadian institutions the freedoms needed to be fully competitive.

This forward-looking attitude would assure that Ontario and its financial industry will be better served for today and tomorrow. But more importantly, the consumer will be better served as continually more innovative products and services designed to meet emerging and changing needs will be offered more competitively.

Recognizing that the Canadian financial services companies must operate in a global marketplace, the key decision for Canadians, and particularly for our governments, is whether or not Canadian financial institutions will be permitted to operate effectively in that global marketplace or not. If our financial institutions are expected to participate effectively in this world marketplace, then government policy, while ensuring the financial protection of the consumer, will also need to encourage competition and growth.

If Canadian financial institutions are not able to grow to world class stature and provide those services that Canadian companies and consumers need, then we must expect that foreign financial corporations will stand in our place. I think this would be sad, indeed, Mr. Chairman, in terms of the loss it would mean to our economy and to the people of Ontario, especially as we have a unique opportunity to do all we can to ensure our place among those companies and countries operating on a world scale.

But if Canada aspires to enter and to compete effectively in the larger arena of the global marketplace, we must enter it with our best companies, companies that are big enough, strong enough and innovative enough to compete effectively. Corporations need a conducive environment for growth because our economy is relatively small in world terms, and those companies that may seem large to us today are only average when compared to the world class companies from other nations.

In fact, not one Canadian-owned company ranks in the current Fortune list of the top 50 companies in the world in terms of sales. Too indicative of our past, perhaps, is the new ranking this year of one foreign-owned company operating here, General Motors, in 45th place.

Expectedly, the United States, Germany and Japan, in that order, dominate the list. It may come as a surprise to some that Holland has three companies among the world's highest-ranking firms, and Italy has two. Even Mexico and Brazil are represented.

Interestingly, two Korean companies grew to be included among the world's largest companies for the first time this year, both of which are ranked above Canada's lone foreign-owned entry. One is Hyundai, which most of us know, and the other is Samsung, an electronics firm that is likely less familiar.

As the process of restructuring the financial sector spreads around the world, some countries such as Germany, have moved to encourage more of their corporations to grow into higher levels of world class firms. I think this is an indication of why these countries, their corporations and their economies are so often the envy of other nations.

If I may, Mr. Chairman, I would like to take a moment to suggest how we might deal with some of the major issues confronting

us.

Firstly, I do not think there should be restrictions on the domestic ownership of financial institutions, although I fully favour the view that it is desirable to have strong public ownership in those institutions. Ownership of a financial institution is a serious public trust and requires exacting regulatory standards of responsibility, reputation and substance for those who seek to own or manage a financial institution. This form of fitness test is commonplace in many countries throughout the world, and indeed, in other industries in Canada.

Responsible major shareholders have been and continue to be a vital part of the Canadian trust and insurance industry today. They have provided an irreplaceable portion of the industry's risk capital, and their presence has resulted in greater management accountability to the benefit of all shareholders, the industry, the community in general and especially to consumers.

A great deal of attention has been paid recently to the universal application of the 10 per cent ownership restriction which currently applies to Canadian chartered banks, not the foreign, wholly-owned Schedule B banks. Forgotten in this debate, however, is the fact that this principle, introduced in the 1960s, was intended not to inhibit domestic ownership of our banks but to prevent their takeover by foreign financial institutions.

The Canadian consumer has shown less concern for the ownership of a financial institution than that it be a safe place to put their money and it be well managed and well capitalized. As a result, consumers have turned in increasing numbers to the trust industry, as that sector has been more demonstrably service-oriented and has provided Canadians with more innovative and cost-efficient service at a variety of hours convenient to the public.

When evaluating financial institutions, overall performance should, I think, also come into play. Not one Canadian bank ranks among the top 50 banks around the world in terms of return on assets and return on equity, two important performance measurements.

Royal Trust, by comparison, achieved in 1985 return on assets higher than any Canadian bank, and second highest among all North American banks and trust companies, and had the highest return on equity.

The question of related-party transactions is another area that has been the focus of regular attention. It seems to me that the discussion in this regard has been limited by its focus on only one side of this complex question.

There are many useful, proper and entirely legal related-party transactions that occur every day in the normal course of business. These transactions are conducted at fair market value, with independent appraisals where necessary. But more importantly,

they neither injure nor threaten either solvency or stability of the firms involved.

Rather than a total ban on related-party transactions, which would unfairly constrain responsible members of the financial community, the financial industry would be better served by a review procedure that combines strict and workable regulations, strong corporate governance and increased disclosure requirements that assured public scrutiny.

Among the Trilon group of companies, we have endeavoured to ensure that our standards of accountability are second to none. Our operating units are autonomously managed and management is accountable to all shareholders for their performance.

In addition, I believe all financial institutions should have monitoring committees consisting solely of independent directors not affiliated with major shareholders. Trilon and its publicly-traded group companies have such committees in place. These committees are charged with reviewing business ethics and approving any related-party transactions, regardless of whether they affect employees, directors or major shareholders.

An important aspect, Mr. Chairman, is that these committees have a clear self-policing mandate, and their decisions are irrevocable. Trilon's constitution of these self-governance procedures has been cited as a model for other financial institutions by both the House of Commons Finance Committee and the Senate Banking Committee.

I think it should also be mentioned that all related-party transactions have come to be associated with a challenge on the stability of a financial institution, when in fact, bad management or other unacceptable practices rather than insider dealing has been the major cause of failure of financial companies. Bad management, for example, resulted in the collapse last year of two widely-held chartered banks. It also has an impact today on consumers, as it is they who must bear in the end the cost of banks' enormous provision for loan losses by shouldering higher interest rates and service charges.

Mr. Chairman, I am persuaded that the presence of major shareholders has provided consumers with a wider range of innovative services, greater protection for their deposits, while ensuring better overall performance and return on investment for shareholders.

I think we Canadians have a unique opportunity at the moment to re-regulate our financial industry so as to mend any past faults, and more importantly, we have the greater opportunity to create a contemporary framework that will foster the growth of our financial industry and will allow it to take its place with authority in the world arena.

The reality is that world-ranked industrial companies in the

larger countries have been active in the financial services area for many years. General Motors, which is the second largest mortgage lender in the United States, and General Electric, which is among the largest issuers of commercial paper, are joined by British Petroleum and Toyota, which is often called "Toyota Bank" in Japan, and a host of other firms.

In many senses, much of what we are currently debating in Canada has long been in place, most often among those jurisdictions whose world class corporations and whose economies are the example for aspiring or less successful nations. One of the common elements in these countries is that they encourage the development of a world class corporate fabric by permitting unlimited access to capital and by not restricting domestic ownership.

I have endeavoured, Mr. Chairman, to limit my comments to only the main issues as I see them so that we may have time for discussion, if you wish.

I earnestly hope we have the national will to concentrate efforts on creating a financial system that is both modern and complementary to developments in the rest of the world. I also hope that we recall that our financial institutions have generally served us well, and their reputation for fairness, prudence and stability is deserved.

If our financial institutions have one trait that is envied in other parts of the world, it is the confidence they have earned. However, confidence is a fragile asset which can be shattered even by perception.

I hope that we exert every effort possible to modernize our financial system so that it can compete on the world scale effectively, but I also hope we do not do anything to diminish the confidence in what is a fundamentally sound system.

And now, Mr. Chairman, my colleagues and I would be pleased to entertain any questions.

Mr. Chairman: Thank you very much. Mr. McFadden has a question.

Mr. McFadden: I wonder if I could ask about a couple of areas. The area of self-dealing has become quite the subject before our committee, and I think virtually every witness we have had has discussed this one way or the other.

I can tell you that your submission this afternoon on that matter is diametrically opposed to a submission we received this morning from the Bankers' Association. The Bankers' Association--I can give you a brief quote from their submission. It says, "The recent history of insolvency in the financial sector can be attributed in many instances to self-dealing between the financial and non-financial interests of the company by a controlling shareholder."

It goes on and gives some examples. It mentions in the United States that 61 per cent of FDIC-insured commercial bank failures could be attributed to insider dealings, and then it goes on and also quotes from a submission that was made to the Commons Standing Committee, which stated that 86.9 per cent of the loss provision of the Canada Development Insurance Corporation related to institutions where material self-dealing was either alleged or demonstrated.

Now, I know that that is considerably different to the point that you made, in which you attributed recent problems not to self-dealing but to bad management practices. Can you in any way fit these two points together, or do you think that you are both coming at this from such a diametrically opposed area there is no way to sort of rationalize these two points of view?

Mr. Lambert: No, I think there is a way to rationalize them. I do not think we are really coming at it from different points. I think some of their statistics are--I think the confusion probably comes from what is the meaning of "self-dealing." Self-dealing, of course, does not relate necessarily to any concentration, or necessarily to people in power.

I think it was just reported very recently in the press that the quality inside the banks in the United States now is becoming a major concern. But if we take Canada, the two big losses were the banks, and in both of those cases self-dealing was perhaps a part of it because, you know, stupid people will do stupid things. But it was mainly bad management, and to their credit, perhaps it was also the unfortunate economic conditions that existed in the principal area that they were operating in. But to a large extent it was bad management.

I think we are very much aware of the self-dealing that occurred in the trust companies here, and I was very closely involved after the fact, assisting the Minister in some of the investigation. And certainly self-dealing occurred there, but I think the real story for us on that was that there had been no entry test for the people that were allowed in. The people were known to be people who would likely be involved in self-dealing, and I think should never have been--would never have passed any sort of fitness test, had there been proper fitness tests.

We have come out very strongly in support that there should be fitness tests. There are for people going into the securities business and there are in a number of other industries, and we think there should be in the whole financial area.

Mr. McFadden: How do you feel about the regulation which was suggested to us, I guess it was yesterday, that a trust company be barred from making any loans to a related company, however that relationship might come, through common shareholding or whatever, unless for example that particular loan was approved by the

regulator?

Mr. Lambert: In answer to that, Mr. Chairman, and with your permission, I would like to ask Mr. Cunningham, just for the benefit of all of us, if he would just run through what are the prohibitions for a trust company and an insurance company, with respect to loans to any officers or shareholders. Have you got that information?

Mr. Cunningham: Certainly.

Mr. Chairman: If you wish to assume a chair opposite Mr. McFadden, Mr. Cunningham, that might be convenient.

Mr. Cunningham: There are several different categories of prohibited loans and investments that have a related-party aspect that presently exist in both trust and insurance legislation in Ontario and federally. I will just go through those various different categories.

First of all, loans to directors and officers in the present trust companies legislation is prohibited. The second layer of prohibition is loans to substantial shareholders, and substantial shareholders are defined as anyone who has a 10 per cent equity position.

The third level are investments in a corporation that is a substantial shareholder. Those themselves are prohibited. And the fourth category are investments in a corporation in which a substantial shareholder has a significant interest.

I think it is best characterized by looking at it as a tree. If you look up the tree--you start with the regulated institution. If you look up the tree, any company above the regulated institution that has a 10 per cent equity investment on a look-through basis in that institution, there can be no dealings between that company and the regulated institution. That is the first aspect.

You then look out on the branches of the tree, and if there is a 10 per cent equity ownership by any company up the tree that has the 10 per cent ownership, loans or investments in that company by the regulated institution is prohibited as well.

And the third category is the one I just want to mention first, is the prohibition against loans or investments to directors or officers of the trust company.

Mr. Lambert: Thank you.

I think that was just some useful background to your question.

Mr. Callahan: I have a supplementary on what we have just learned. You can accordingly structure your corporate entities to come within the framework of that ruling, can you not?

Mr. Lambert: No, I think it is on a look-through basis, Mr. Callahan. Certainly, we have not tried. But I am not aware that you could get around--we have fully supported this legislation, and indeed, we could perhaps add one or two further suggestions to it to further strengthen it.

But in the trust companies and in the life companies, we are not allowed to lend to directors, and the banks are. So there is less freedom with them. I think that is often not fully understood when people think on insider dealing.

Now, if you were talking about getting around them and the structures the way they did at Crown Trust, of course you can get around almost anything there if you want to take those sort of risks, and I guess he is going to find out just how severe the risks were at some point. But in our group, in London Life and in Royal Trust, that is strictly followed, and indeed we do not even come close to being in conflict with any of that.

To absolutely ban it all, as you have said was suggested to you, I think is unnecessary. It is sort of using a sledgehammer to get at something that can be done much more delicately. We are very careful about any dealings with related parties, that they be done on a very open basis. In addition to that, as you have been told, we have set up our internal governance with our independent directors' committee, and anything and everything that is between Royal Trust or London Life and a major shareholder has to go to that committee before it can be completed. And that committee has been fully schooled on its responsibilities. It must be absolutely satisfied that these are done in an arm's-length way.

So I just believe that to say there should be a complete ban is suggesting we do not have the ingenuity to do it in a better way, and I believe we do.

Mr. McFadden: Certainly, as I would understand what you are suggesting, the regulations in place now seem to be adequate, as I understand what you are saying, to deal effectively with self-dealing. One question I have, though, is the responsibility of directors, the thing that has come out continuously here--and I think the events of recent years have clearly indicated that--that the directors have to be people of experience and integrity and character to very clearly protect financial institutions.

One of the points that has been made to us in this whole debate has been the potential responsibility of directors ultimately to the depositors. Now, I know there are policy-holder directors in insurance companies. Today, under corporate law, directors are legally responsible to their shareholders, not to the depositors, except I think a good director would take seriously his social responsibility, if nothing else, to the depositors and to the long-term strength of the financial institution.

What is your reaction to creating some form of a legal responsibility or framework in which directors would have some responsibility to depositors and the shareholders in the case of deposit-taking financial institutions?

Mr. Lambert: It would be very positive, if there is any misunderstanding. If the directors are responsible to act prudently at all times, they are responsible for the health of the corporate body on which they serve. Their responsibility to the shareholders probably comes well below their responsibility to do nothing or permit nothing to be done which would injure that corporate body. And if that is not clear--and I am not a lawyer but my understanding is that it should be clear to all directors that their first responsibility in a financial institution is to the depositors. I was weaned on banking and we were told morning, noon and night that you'd better always be sure that the depositors are protected. And that is why their responsibility is to see that we do not make bad loans, to the extent they can, and we do not jeopardize the institution just to try to maximize profits.

So if you think that that does not come out clearly enough, I would be very positive in anything that reminded them of that, even to the extent of saying their primary responsibility in a financial institution is to the depositors.

Mr. McFadden: I think events of recent years indicate some directors may have been a bit confused as to their responsibilities.

Mr. Lambert: I think I would have to accept that.

Mr. McFadden: Thank you, Mr. Chairman.

Mr. Chairman: Mr. Mackenzie, Mr. Haggerty and Dr. Stephenson.

Mr. Mackenzie: I was just curious as to whether you have a percentage figure that you have some sympathy with in terms of ownership.

Mr. Lambert: Well, this is a very difficult thing. I have worked with, over many years, widely held corporations, and I have served on the boards of many and I think there certainly is a place and I have no problem with widely held companies.

On the matter of percentage of ownership that might be permitted, I guess if it is going to be meaningful at all, it has to be at a level where the major shareholder will believe that the benefit that he gets out of his ownership justifies the extra time and effort he puts into the attention he pays to the entity, and knowing that the rest of the shareholders are not putting that effort and they are still benefitting.

In our own group, we believe that getting close to 50 per cent is important to us, because we do put a great deal of time and

attention to all of our entities, and I think it has shown since we became major shareholders of London Life and Royal Trust and Wellington and some others.

You know, because of Canada and its geographic size, most big corporations, the boards are drawn from across the country with wide geographic representation, and that is as it certainly should be. But that also means that it is a fairly loose association. They are not seeing each other on a regular basis, other than perhaps--or mostly other than at board meeting times. And therefore--I have worked with the board on the bank, and it was a very good board and a board of 40-plus at times, but from all parts of Canada, and there was not much leadership amongst the board as such.

I think a major shareholder brings some leadership to the board. He probably--the representatives of the major shareholder would be in the minority, but nevertheless if they sense something is going wrong, they would be the catalyst to start to take some action with the other directors.

I think it is like a caucus. You have got to have some group that is really going to get things moving, and very often--I think we all know of instances of widely held corporations where change was clearly needed but it took quite a while for the board to really come to grips with it. And that is understandable because no one wants to really be the initiator of something pleasant, and we tend to often go along with these things; whereas a major shareholder is so much at risk himself that he is less inclined to go along with something that is not right or that is unpleasant. And so he will be the catalyst to bring it to the attention of the whole board and, through the whole board, work for change.

So I guess I feel it should be certainly a meaningful level, and I think meaningful is something close to 50 per cent.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: Thank you, Mr. Chairman.

Mr. Lambert, you were talking about going public with your corporation and that, and I guess when you look at Edper holdings and that, and each one of them indicated to the committee here that it is a public company, in a sense to say. But I notice that each one of the percentages owned by, you might say, the private--or shareholders in this particular area control about 50 per cent or 51 per cent. So really when you look at it, there is less chance, I suppose--when you look at your company holdings and that, there is less chance of a takeover. Am I correct in that then?

Mr. Lambert: Yes. I would say that that is . . .

Mr. Haggerty: So you protect yourself very well in this particular area of your corporation.

Mr. Lambert: Yes. That is fair. That is true. But may I just enlarge on that with some of the comments you made?

Sometimes it is overlooked that in a group as big as the whole Brascan group--we are just the Trilon group, but their ownership in Trilon, the Brascan, is about 40 per cent, but then Trilon in turn only owns 50 per cent of Royal Trust. So when you carry that through, that 40 per cent is reduced to 20 per cent of Royal Trust. But then you go back and Brascan has its public shareholdings that are outside the group. But actually when you get it right back to the Edper, the family as such, you are not talking there of 50 per cent; you are talking there of a much more modest shareholding. Did I answer your question?

Mr. Haggerty: Yes, thank you.

On page eight of your brief this afternoon, it says: "Royal Trust, by comparison, achieved in 1985 return on assets higher than any Canadian bank and second highest among North American banks and trust companies, and had the highest return on equity."

We had the group of bank officials in this morning here, and they indicated that some place along the line, and maybe the committee members can help me on this--they were saying that the way that you present your reports in this particular area really does not show, perhaps, the areas of--I am looking at the insurance end of it and the pension funds that are there. You include that in there, which the banks do not include in their financial statements, I guess it is.

Mr. Lambert: Well, I was a little nervous with this part in here about how high the earnings of Royal Trust were, that somebody might think we were gouging. But actually the reason for that good performance, and it is quite fair to say, is that we have had very, very modest provision for losses in both London Life and Royal Trust.

But on your point about the presentation, there is confusion in people's minds about the actual assets which are owned, really, owned in the sense of them being fully responsible. They owe much against them but they are responsible. The owned assets--and in the case of Royal Trust, the owned assets are around \$11 billion to \$12 billion. But they also have another nearly \$50 billion under administration.

Well, under administration is something very different than owning. Some of it is discretionary. Some of it is not. The law sets out what you can invest in to a large extent for estates and that. I think, and I hope I am not wrong, but my understanding is that Royal Trust is very careful in not giving the impression in their annual reports or other publications or ads that--in not counting these assets under administration or ETA, estates, trusts and agencies, as part of their total funds. I think we are careful.

I do not mean anybody else is--some are presenting it a

little differently, and I think it is perhaps to show the total amount they are responsible for, but there is confusion on that. I accept that some people become confused as to just what your resources are. But we are very clear in setting out that ours are the actual resources that we really feel we own, and we own the assets and we owe the liabilities.

Mr. Haggerty: Thank you.

Miss Stephenson: Can I ask something related to the discretionary portion? There is a different level of discretion for various types of assets which you are in fact managing. Can you give us some definition of the percentage of discretionary capability of the trust company in those categories?

Mr. Lambert: Well, on pensions, Dr. Stephenson, we are managing--we do manage a lot of pension funds. The board of the company would decide whether they wanted us to have full discretion or whether they wanted an investment committee of the board to work with us and approve any recommendations that we made.

Miss Stephenson: Or even an outside . . .

Mr. Lambert: And quite often--but then you are really acting more as a custodian, but it is the same. Then you might have three or four outside consultants or advisors who were either given discretion or not. Usually, I would think outside advisors are given discretion.

In estates, the will itself very often decides whether--if a man has his own company and dies, he has probably said how he wants the ownership in that company dealt with, and you must abide by what he has requested. So there are many different types, and I would say, of the total, it would be considerably less than half on which you have full discretion.

Miss Stephenson: Does full discretion permit the interchangeability of those assets with assets totally held by the company?

Mr. Lambert: That is a very good point. Only within what is permitted under the British--under the act, the Canadian British Investment Act, which really restricts these investments largely to companies that have been paying dividends over a reasonable period.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: Yes. We were talking about corporate control and that, and I was looking at the Reichmanns' empire and the Edper empire. I noticed that Trilon is mentioned in their financial holdings, Carena properties and Cadillac Fairview. Is there any possibility that there may be a marriage down the road when you get two or three large corporations . . .

Miss Stephenson: It is always possible.

Mr. Haggerty: I mean, we talk about conflict of interest in mergers and takeovers. Is there any . . .

Mr. Lambert: There is always a possibility. I think if we set out a philosophy, then there is always a chance that that philosophy will be changed. We have said, in Trilon, that we are only going to be involved in financial services in financial type--that is insurance and trust and other financial services. And so we would have to have a major change and I think take it to our shareholders before we could ever contemplate buying a hotel or a property development company or Cadillac Fairview.

Mr. Haggerty: So the shareholders would have--is it under your constitution that they would have a voice and, say, that they would have a right to vote on an issue?

Mr. Lambert: Yes. Each time we have issued securities we have said this is our philosophy, and we would have to go back, and certainly we would regard it as a requirement that we seek shareholder approval and support for departing from that philosophy, because it is a very clearly laid out philosophy.

Mr. Haggerty: Thank you.

Mr. Chairman: Now, Dr. Stephenson, you have a major question.

Miss Stephenson: We have heard today again that the primary bulwark which is exercised in Trilon and the companies related to Trilon against the damaging effects of what might be considered insider dealing or that kind of activity is indeed the appointment of a significant number--even though there is a major shareholder, a significant number of outside directors; and that the role of the outside directors is to obviously keep the company honest. Because one of their major activities is in fact a review or an audit of all transactions which might occur that were less than arm's length, by the financial institution involved.

I believe that I heard that that audit is carried out before the transaction occurs, but I am not clear about that, because we heard yet another remark which suggested to me that indeed it was an after-the-fact review that might indeed reverse the decision which had been taken. But I would like to know whether the philosophy really is that it is a before-the-fact review, and that if there is a decision, that this is inappropriate in terms of unfair dealing.

Mr. Lambert: It is definitely before the fact. Absolutely before the fact.

Miss Stephenson: In all of the companies?

Mr. Lambert: In all of our companies. I can only really speak for us. Where these things happen, it would go to an investment

company, and if they approved the transaction on the investment merits of it, if it was in with the related company before it could be done, it would go to the business conduct review committee and could not be done--it would end right there if they turned it down. And they are absolutely free to turn it down. They have legal advice available to them and they have access to the auditors if they are in doubt about anything.

So, yes, I think--I am glad you cleared that point up because with us it is absolutely before, because trying to unwind something is very difficult and it puts too much pressure on the committee to say, we have done this; we hope you are going to go along with it. We have never done that. It has always been, are you perfectly comfortable? We would like to do this; are you perfectly comfortable? Because we think it is being done fair to both sides.

Miss Stephenson: The philosophy obviously is based upon the perception that examination of those who are to be permitted to function as principals within the financial institutions area, the preliminary examination to determine their fitness is an absolute requirement, and the function of dispassionate, uncommitted--well, they would have to be committed, but they cannot be in fact those who are involved on a day-to-day basis in the functioning of the company--directors will ensure that there is sufficient protection for the public in terms of the function of financial institutions; and that we really need not worry about regulations regarding the size of major shareholders, about specific rules about the kind of dealing that can be carried on by the financial institutions; that regulation--deregulation is not what you are proposing. Re-regulation of a very limited sort is what you are proposing, but an increase in regulation you are certainly not proposing.

Mr. Lambert: I think, Dr. Stephenson, what we feel is that a complete ban on all of these things is unnecessary if you have the self-governance. Well, you have specifically certainly things you must not do, which are set out in the law. Those things you cannot do. Then, in addition to that, if there are other things that are permitted under the law but which are with related parties, then those must be referred to an independent committee--a committee of the independent directors. And they are chosen from people who really have to be independent.

You cannot, for example--if you had a lawyer on your board and that firm acted at any time for any of the major shareholders, he would not be qualified to act on that committee. It must be someone who--well, he should not be on the board unless he was considered to have some experience. But they are chosen from the more senior people who have experience in business and would know when a thing is being done on a fair basis or not.

You know, these transactions--I am always concerned about having to say that I do not agree with a complete ban, because I certainly do not agree with any self-dealing, and it almost makes it seem as if there were certain things you wanted to do. It is not that.

It is just that to be told you cannot deal at all with people you know is, I think, carrying it too far.

Miss Stephenson: I am aware that there is a difference. At least, I am becoming more aware that there is a difference in the role and responsibility, I guess, of financial institutions as industry institutions within our society as compared to other kinds of industries. And I think perhaps the financial institution area begins to have--or should begin to have the kind of philosophy which includes caveat emptor not at all; that indeed there should not be any real concern on the part of the consumer that anything shady is likely to take place. And therefore, I really begin to wonder whether you would not pursue as an area of economic activity in this province and this country, the direction that would ensure that the public understands that there are dispassionate and non-aligned directors within each company, by enlarging the scope of selection of your directors.

I would remind you that in many areas which are of grave concern to individual consumers, there are relatively large numbers of non-professionals on the boards which in fact ensure that professionals behave properly within the delivery of their service. When I hear you and everybody else who comes here say, "They have to be businessmen"--and that is not necessarily used generically in that form either, I can tell you--that "They have to be businessmen who have had experience"--there are a lot of civilians, I have to tell you, who learn rapidly and who might in fact just add something, not only from your point of view in terms of value, but from the public perception of the integrity, and I mean the moral integrity of your institutions, and not just the financial integrity. And I wonder why that is not considered a little more frequently than it appears to be.

Mr. Lambert: I think it is considered, Dr. Stephenson. It is a valid point, but I think we also take into account the extremely, I believe, heavy responsibilities attached to being a director now, and...

Miss Stephenson: But what I am trying to say to you is that I believe there are people who are not necessarily active in business right at this point, who might have the time and the commitment to be the kinds of directors that you want but who are not necessarily considered.

Mr. Lambert: We have not done a very good job of that, but we are reaching out a bit. We have recently, at both London Life and Royal Trust, put on people I think who would qualify with your description, people with good common sense but not . . .

Miss Stephenson: But not necessarily in the area of high finance.

Mr. Lambert: Not necessarily having been in a major--in any corporation, really. So we are reaching out a bit, but we have a long way to go. I accept that.

Miss Stephenson: Because I get tired of reading the same

names every year on the list of Canadian directors. They do not change unless somebody dies, and then you very reluctantly sort of reach into a little pocket somewhere and pull out a name which is all too familiar to everybody. And David keeps telling me that it takes real expert knowledge and experience and the ability to read a financial statement . . .

Mr. Callahan: Are you putting a hook in for a directorship, Bette?

Miss Stephenson: No, I am not. I would just them to remember that 51 per cent of the population of the Province of Ontario is not necessarily a group that should be ignored . . .

Interjection: Here, here.

Miss Stephenson: . . . nor is the group of those who have not had, perhaps, ongoing experience within the business community but who do have the kind of philosophical background and intelligence which would help them to be of advantage to your industry.

Mr. Haggerty: It is like a closed shop.

Mr. Lambert: I think it is less of a closed shop than it used to be, but it has got quite a way to go.

Mr. Chairman: Mr. Foulds. I am sure you are prepared to follow up on that.

Miss Stephenson: My concern is that if indeed we are not going to produce regulations, we have to have something to depend upon, and I am not sure that we can depend upon what has been traditionally in place. I guess that is what I am really trying to say, and maybe there are some new directions that need to be pursued in order to build public confidence in a way which will be of assistance to you.

Mr. Lambert: This is not in any sense self-seeking, but I think very often you go through an exercise such as this and wonder just what--whether it is--how meaningful it is. I am absolutely persuaded that getting these things out in the open and having discussions such as this is very important in the maturing of our whole society, and getting things done better. There is a lot to be learned yet. So I think what we are going through in the financial services--through the different appearances that we have had, in Ottawa and here, I think we have learned a lot and I hope it has been for the better. I believe it has.

Miss Stephenson: Good. Well, we have learned a lot as well. Thank you.

Mr. Chairman: We still are.

Miss Stephenson: And we keep on learning constantly, I

hope.

Mr. Chairman: Mr. Foulds and then Mr. Callahan.

Mr. Foulds: Thank you, Mr. Chairman.

I have a couple of questions. How many directors are there in Trilon? About 20, if I understand?

Mr. Lambert: Fourteen.

Mr. Foulds: How many are outside directors?

Mr. Lambert: Outside of the Brascan group do you mean, the major shareholder? We have had several major--the reason I ask, the Brascan group have about 40 per cent, and then we have one or two other important shareholders. If you are talking about how many are outside the Brascan family as such, I think there are six that--six Brascan, and so there would be eight others.

Mr. Foulds: And who would constitute the review committee then, that you have established?

Mr. Lambert: Trilon is really a holding company, we try to--for cosmetic reasons. We do some other things, but it does not have one because it is a non-regulated company and there have not been really any transactions that Trilon would take that would qualify in this. But all of our other companies . . .

Mr. Foulds: It would be companies like Wellington Insurance.

Mr. Lambert: Well, Wellington is still so new we have not actually set it up there yet. But at Lonvest and London Life and Royal Trust, which are the regulated companies, we do have these committees.

Mr. Foulds: The review committees.

Mr. Lambert: Yes.

Mr. Foulds: Can you give me a rough idea of the proportion of directors and outside directors, and therefore review committees, in each of those companies?

Mr. Lambert: Yes. At Royal Trust, about a third could be regarded as somewhat related to the major shareholders. That would include O&Y and that, and the other two-thirds are completely outside. At London Life--as you know, with a life insurance company, the policy-holders are required to have one-third, and in addition to that the non-Brascan would bring that third up to, I think, 50 per cent. So we would--London Life is about half inside and half outside.

Mr. Foulds: Could you help me with one other thing?

Mr. Chairman: I would not mind asking a supplementary, if I could, to that question.

Mr. Foulds: Go ahead.

Mr. Chairman: When you talk about 40 per cent of the directors are outside of the Brascan conglomerate, that would be the Olympia and York conglomerate plus the Toronto Dominion Bank. Is that correct?

Mr. Lambert: You are talking about on Trilon or London Life?

Mr. Chairman: Well, Trilon. Let us start with Trilon.

Mr. Lambert: Let us start with Trilon. Well, O&Y have two, the bank has one. Mr. Hawkrigg reminds me that of the 14, 4 are related to other principal shareholders. Then there is two others--so there is two. Four are not related at all to the major shareholders and the other ten are, but that includes representatives from O&Y and the bank, and the Jeffrey family.

Mr. Foulds: Thank you.

I was just curious. I was going through some of the background information provided to the committee by our research people on Trilon, and in the Blue Book of Canadian Business, 1985, it indicates that Brascan Limited held 29.4 per cent of Trilon, and then you used the figure about 40 per cent, and in another article that was from the *Financial Post*, it indicated 46 per cent. Has there been an acquisition of shares over the last year by Brascan?

Mr. Lambert: I do not know just what the date of the Blue Book was, but that would probably be at the end of 1984?

Mr. Foulds: Eighty-five.

Mr. Lambert: It is.

Mr. Foulds: It says, the Blue Book of Canadian Business, 1985.

Mr. Lambert: I think when I used the figure of 40 per cent, I was including it all, up to a recent date anyway. It may be one or two percentage points up since then because there has been a little movement, but that includes it wherever it is in order not to understate it.

Sometimes these things are held in different companies but all part of the group. But the figure of 40 per cent would be--roughly just over 40 per cent would be all of their holdings, whereas the 29 per cent would perhaps have only been directly in the Brascan company itself.

Mr. Foulds: Okay. It was the *Financial Times*, March 31st,

1986, that indicated 46 per cent owned by Brascan.

Mr. Lambert: The *Financial Times*? Well. . .

Mr. Foulds: Is that a fairly reliable source?

Mr. Lambert: We sometimes wonder where they get their figures.

Mr. Foulds: It seems to me if there has been a genuine 17 per cent increase, then it seems to me there has been an accumulation and a concentration of . . .

Mr. Lambert: I would suggest that there has not been that, because there are warrants and things out and if you take it on a fully diluted basis, you get some distortions there too. But no, I would say that from the end of 1985 to now, there has not been over 50 per cent increase in their holdings. Absolutely not.

Mr. Foulds: Okay.

Mr. Lambert: There have been minor additions but not anything of that size.

Mr. Foulds: So you still put the figure at roughly 40 per cent.

Mr. Lambert: A little over 40 per cent is the figure that I would . . .

Mr. Foulds: I had one or two minor questions on the presentation itself. You give the committee a dilemma. I mean, the banking industry says very clearly there should only be 10 per cent by any major shareholder. Your side of the financial world argues 50 per cent at least. In true political fashion, is there any compromise that (a) you can live with, and (b) you see as being workable and reasonable?

Mr. Lambert: Could I just take a moment to go back a little?

In the history of trust companies, they nearly all had a significant shareholder. The Bank of Montreal had a significant shareholding in Royal Trust, the Royal in Montreal Trust, the Commerce in National Trust, the Toronto Dominion in Canada Permanent and Toronto General Trust. And so the history of the trust company industry is that they had an important financial backer, and that went on until the government decided that banks--there should not be interlocking boards of directors with trust companies and banks, and the banks must, over time, sell down their holdings to 10 per cent.

Well, that industry had come through, all its life really, living with a major financial shareholder, and it is not surprising that sort of out of that has come a degree of dependence again on a major financial shareholder.

So I think to draw a comparison with the banks is--I can understand them doing it because I was probably doing it when I was there. But . . .

Mr. Foulds: Can you explain your change of heart then?

Mr. Lambert: It is age!

Mr. Foulds: And maturity, obviously.

Mr. Lambert: I hope! But the banks really did seek--I was there and know that we welcomed, it was not imposed on us, we welcomed this 10 per cent. No one had even 2 per cent of a bank.

And the banks have such a high profile that I think they are, by and large, well managed and perform very well, because they are so much in the public domain. The analysts compare them one with the other. But if you take some of the other financial institutions--if you take the life insurance companies, I do not think that any of us really could rate them on their performance. They just do not have that high a profile, and to a large extent, until there became major shareholding in Canada Trust and the Royal Trust, very few people really knew how they were doing. And they were not doing very well, really, but not many people knew that.

Now I think these companies have a much higher profile, and I think having that high profile has put pressure, if that is the right word, on management to perform. It has certainly made them more performance-oriented.

Mr. Foulds: Just one other question . . .

Mr. Lambert: So I guess the answer to your question is, I think you are mixing two things that should not be mixed when you are talking about what percentage is appropriate for the banks, which I believe the 10 per cent is a good thing and so do they, but I do not think it is a good thing now for the trust companies because to bring about that change would be very, very unsettling for the whole financial community in Canada.

Mr. Foulds: There would have to be a fair amount of divestiture.

Mr. Lambert: Even over time. The problem is that, you know, if you know you are going to die of cancer in 10 years, you are starting to die today. And that is what would happen. They would start to die the day that came in. They might not be dead for 10 years, but it is not much of a life.

Mr. Foulds: Well, I cannot find it but there is a quote in one of our--oh, here it is. Mr. Hawkrigg is quoted as saying that . . .

Mr. Lambert: We think he is quite reliable.

Mr. Foulds: That is why I wanted to quote it to you! "I believe we are on the threshold of a period of major opportunity where prosperity can come to those solid and nimble corporations, their partners and associations, who are prepared to respond creatively to discriminating consumer needs."

As I read through that--this is just a mischievous quirk in my own mental processes--I was reminded of the original "Rainmaker," not Keith Davey but the character in William Inge's play. The combination of words is quite marvellous and dynamic, but what does it mean?

Mr. Hawkrigg: I think what it--and I still believe in that quote, so obviously it was a good quote. Maybe the words in there that are giving you a concern is "nimble," and the interpretation of "nimble," and I guess the interpretation in my mind is being able to react fairly quickly to consumer needs.

In other words, you are not so large and muscled--because I think I am talking in there about size. In other words, you need size and you need muscle but you cannot be musclebound, because I think--Dr. Stephenson, of course, would know what it means when you are musclebound: you cannot react quickly. Nimble in that sense means being able to react to consumer needs as the needs are there, and not having to take a long time to do it.

Mr. Lambert: He is probably drawing on his experience as a quarterback! Survival.

Mr. Hawkrigg: But that was the interpretation . . .

Mr. Foulds: As I have a 12-year-old son who has fulfilled the same position, I can understand that.

Mr. Hawkrigg: I wish him luck.

Mr. Foulds: What are the consumer needs that Trilon Corporation has seen as being there that are not being provided?

Mr. Hawkrigg: That are not being provided?

Mr. Foulds: That are not being provided.

Mr. Hawkrigg: I do not think there is any of the financial services that our group companies individually are offering that are unique from what is already in the marketplace. I think we would like to think that our companies will be offering them at a very competitive price and an improvement possibly in the quality, and maybe broadening the scope of the service that is available there. I do not think there is anything . . .

Mr. Lambert: Well, some of our mortgage lending, we have led the way. Others have started to follow. And I think on

convenience of hours, we are open longer hours. And just being able to double up on your mortgage, that sort of thing, which was quite important when interest rates were high, to be able to pay back more quickly than in the contract.

Mr. Foulds: Okay. Thanks. I have taken enough of the time.

Mr. Chairman: Mr. Callahan.

Mr. Callahan: Just as you were talking here, I was thumbing through the book, "Controlling Interest," and just for the benefit of my friends, I noticed that Jimmy Patterson, who is--they call him "Canada's king of conglomerates." And just for the benefit of my colleagues, at the bottom of page 90, it says that "Jimmy Patterson was a dyed-in-the-wool socialist while Dave Barrett was a free enterpriser. The tables were reversed when Barrett became leader of the NDP and eventually his Premier, and Patterson became a right-wing Social Credit person." So I guess there are conversions on the road to Damascus.

But having said that, the question I wanted to ask--the concern I had and the question I asked this morning was that the comments we have had on cross-ownership, do they solve the entire issue? Because if you have interlocking directorships, clearly the same problem exists in that you have people on the trust company's board of directors who also are directors or perhaps even shareholders of another corporation. Do you not have the same difficulty as cross-ownership? And that is why I kind of like--I looked at your brief and I kind of liked the idea of the committees developed inside the corporation to look at these issues, but I wondered if you would like to comment on that.

Mr. Lambert: Well, we certainly should not represent that there is any perfect way where we are not going to have problems. I think you need a combination of things without going to an extreme, because I do not care how--if we went to an extreme, if we completely banned all self-dealing, you would still find there was self-dealing because you could not police it completely. So I think it is really combining a good regulatory system with some good selection of the people who come into the industry, along with some self-governance and very, very strict and clear responsibilities that directors understand they have. I am great for the directors knowing that they have a very real responsibility. They get paid for it and they should accept it, and they should make sure that they are carrying out prudently the responsibilities that are assigned to them.

Mr. Callahan: Of course, if government has any role to play, it is one as a matter of public policy to put into play mechanisms that will not unduly interfere with business being carried on in a free and open fashion, but to protect those of the public who might be injured by those directors who might not take that responsibility as seriously as you put it.

The second concern I have is the question that has already

been raised: if the obligation of a director, his first obligation is to the shareholder, which is understandable in a commercial operation, apart from the financial operation, how does one justify that with a financial operation? Clearly, that is a very deliberate conflict of interest.

Mr. Lambert: I do not think his first responsibility is to the shareholders, any more than the management's responsibility is to the shareholders.

Their first responsibility in the financial institution is to the depositors. Whether that is set out in law or not, I do not know. But in practice I think if you asked the head of any bank or any trust company, he would tell you meeting the clearing each morning was his responsibility, and keeping the company solvent was his major responsibility. And that is not in conflict, of course, with the shareholders' interest. But it really is to the depositor, as it should be, and if that is not spelled out clearly enough then I hope you would perhaps care to make it more clear.

Mr. Callahan: Just one final item is the--and I think you have touched on it, and it is one that, I suppose, we in the legislature are very aware of: the question of not only actual conflict or actual fact, but perception, particularly in the field of financial institutions, since they require both of those aspects to be up front with the public. Do you see the way you do it now as being sufficient to create that image for the public? I might carry that one . . .

Mr. Lambert: I think it takes a little bit of time.

Mr. Callahan: I might carry that one step further. Let us say that one of your companies that were involved in this corporate arrangement were to start to look a little weak, and the public perception as a result of the press or even as a result of the facts that might be made known to the public, that they caused a run on a trust company because they felt that that subsidiary or whatever was in trouble. How would you deal with that?

Mr. Lambert: Really, it is not a problem. I would like to share with you--I know this is a public hearing but this is a fact. With the Continental Bank, when they were having great troubles, the shareholders--the major shareholder never once suggested that Royal Trust or London Life or any of us should put any of our depositors' funds--expose them to Continental. And we did not. Anything that was there was treated in the normal sense, but there was never any follow-up once it was clear that they were into the Bank of Canada and were having problems. Indeed, the major shareholders stayed with that bank, and I guess you may know that today it was announced that it has been taken over by Lloyd's Bank.

That is the concern that I think the press has built up, and perhaps some of our competitors have built up. Not perhaps; some of our competitors have alluded to--that we would come to the aid of one of the companies in there. But it does not work that way. It

cannot work that way. There is not any way in which Mel and Gordon--and I am Chairman, but Mel is the CEO--there is not any way they are going to put their company in any jeopardy because of somebody else. That is their problem. They have to find their way out of it. And this is the way it must operate. It would not be prudent if you exposed yourself.

Mr. Callahan: Thank you.

Mr. Chairman: I have one question. I have a quote here from the President of Royal Lepage, William Dimma, quoted as saying: "We can refer insurance business to London Life and mortgage business to Royal Trust. We would hope that they would refer real estate business to us."

I understand as well that Trilon has a share incentive program for employees that refer business back and forth to various Trilon companies, and in fact there are shared computer services and so forth. And yet your submission to us, and incorporating the submission you gave to the federal committee--it indicates that you fully agree with a prohibition on tied selling. Are you not practicing it?

Mr. Lambert: No, we are not, Mr. Chairman. It is a strict rule. There cannot be any pressure brought. It is only a referral basis.

As an example, in Lepage, when working with Royal Trust, they were given certain promises that they could approve a mortgage on a house that was up for sale within certain limits, and the rate and everything else was known. So when they were making the sale, they could say to the prospective buyer, I can get you a mortgage at such and such a rate and then such and such an amount. So he knew--and recently houses have been selling very fast, and unless you moved fairly quickly when you saw one you really wanted, you would probably miss out.

But those are sort of synergies that we worked on, but there is not any way that that agent would or is required to say, you must take it with Royal Trust. And about 40 per cent of them normally do take it, because it is a great service, but the other 60 per cent are free to either not mortgage or take it where they want. And throughout it all--I think I will ask Mr. Hawkrigg just to enlarge a bit because he has been really in charge of the synergy side of the cross-dealing.

Mr. Hawkrigg: Thank you, Al.

Mr. Chairman, just to clarify. Tied selling is much different from networking, and networking or the referral type program is what we are talking about. Tied selling would be an example where you could not get that mortgage from the Royal Trust Company unless you sold your home through Royal Lepage. In other words, a condition on one product or service that is tied into being able to have yourself

availed of the other services.

The networking or the referral program is obviously a very strong reason for Trilon's existence. In other words, we have investments in very major and strong financial service companies who have their own distribution networks and their own products, of course, and the program that we have going is we are attempting to encourage each of those companies to work with the sister companies to their mutual advantage--and I think the term "mutual" is very important in this context--in using and accessing the other companies' distribution networks. That is the thrust and the future of many of the financial services, not only in Canada but internationally.

In order to encourage the networking or the referral program, and also to give the family feeling to our 20,000-odd employees in our Trilon group of companies, we thought a very appropriate incentive would be in the form of Trilon shares, and it is encouraging equity ownership amongst our employees, if nothing else, but also it gives them that family feeling. We have been very successful in that program, and you also are able to get Trilon shares if you personally use other Trilon group companies' products. In the last 15 months, I guess \$500,000 worth of Trilon shares have been earned on behalf of our employee group. It has been a well received program. Our employees are quite excited about it, and . . .

Mr. Chairman: So in other words, a lot of networking is going on. So you must be making it--and employees must be making it very attractive to customers.

Mr. Hawkrigg: Yes.

Mr. Chairman: And you are saying that it is all right because the customer, if he were foolish enough, could still use one of your services without going to the other.

Mr. Hawkrigg: Absolutely. But we would hope that our people are good enough salespeople . . .

Mr. Lambert: I think it goes beyond that. He knows--they know clearly that they do not have to. It is just being offered as a service.

Mr. Ashe: Mr. Chairman, can I clarify just one item? You mentioned that employees earn shares. Do they earn them free? Do they earn an option to buy at a reduced price, or do they just earn an option to buy at close to market?

Mr. Hawkrigg: They earn a dollar amount that is credited into an account on their behalf, and the funds that are in that personal account of theirs are then used to buy and acquire Trilon shares at the market value at that time.

Mr. Ashe: Okay. So they are acquired at market--Treasury shares or on the market?

Mr. Hawkrigg: At the market.

Mr. Ashe: No, but from the market?

Mr. Hawkrigg: From the market.

Mr. Ashe: Okay. There is a little difference there. So there is a dollar value attached to each service, if you will, that they sell that goes into their little bank account, if you will, but that bank account must be used for equity.

Mr. Hawkrigg: That is right.

Mr. Ashe: Thank you.

Mr. Chairman: Thank you very much. As I am sure a lot of people have noticed, I have let you go over for a half an hour and ten because we were really interested in your perspective on things and you have been very helpful to us.

Mr. Lambert: Thank you, Mr. Chairman and members of the committee. We have enjoyed being with you. Good luck.

Mr. Chairman: I want to thank the Trust Companies' Association too for waiting this long.

Members of the committee will have received on the 22nd of September the brief from the Trust Companies' Association. We appreciate your providing it to us ahead of time. Perhaps if you, Mr. Potter, could lead us through your submission, we usually find that of great assistance. You do not have to know how to read to get into politics!

Mr. Foulds: On the other hand, I want to get it clearly on the record it is not an impediment.

Mr. Potter: Thank you very much, Mr. Chairman and ladies and gentlemen. I would like to introduce myself first: William Bill Potter, President of the Trust Companies' Association, and on my left, my colleague Mr. William J. Inwood--Bill Inwood--Senior Vice-President and General Counsel, and Secretary of Royal Trust, and also he is Chairman of the Association's legislative committee.

We are pleased to appear before you this afternoon. I thought rather than read our complete brief, which I think you have had for the last week or so, I thought probably in the element of time I would just hit some high points and other pertinent factors, and then of course on the questions you can either refer to this or my opening statement. And I understand that the clerk has been given sufficient copies of this opening statement.

Mr. Chairman: Excellent.

Mr. Potter: As we said in our brief, our association believes that any discussion of corporate concentration must address the following basic issues: what is the level of concentration in the particular industry being discussed? Does the concentration that exists threaten the public interest or the interest of the consuming public? What factors have been instrumental in allowing any observed concentration to emerge and persist? And are there grounds for government action, and if so, what remedies are likely to be most effective in assuring the concentration does not pose threats in these areas in the future?

We do not believe that corporate concentration is currently a problem in the financial services industry. Indeed, we are convinced that the ownership and structural changes which have occurred over the past few years have acted to strengthen individual firms, increase the stability of the industry and enhance effective competition to the benefit of the consuming public.

And if I could stop here for just a minute, I think in this last week or so many examples have come up on the innovative marketing that the trust industry is giving competition to the banks, giving the consumer a wider choice and so forth.

The belief that such consolidation and reorganization as has occurred in the financial service industry can be beneficial to the economy has been supported by the recent study by the Economic Council of Canada. The authors of this study concluded that, and I quote: "Corporate mergers may be better for the economy than hereto thought. Instead of reducing competition they can also enhance it, either by enabling new competitors to enter markets where competition might be lacking, or by committing small firms to rationalize production and become more competitive."

Now, while this study examined the manufacturing sector, we are of the view and fully convinced that the conclusions are equally applicable to the financial services industry. Most importantly, we believe that potential future concerns over concentration can be eliminated now by taking action to ensure that the various market sectors served by the financial institutions are open to new entrants and to the discipline of market forces and competition. This suggests that barriers to entry into the various market segments comprising the financial service industry should be removed or substantially reduced in order to allow the greatest possible number of financially sound and qualified firms to compete actively. In this regard, the committee may wish to consider the qualifications and capabilities of those who enter the financial markets as more important than possible risks posed by concentration. And ladies and gentlemen, Mr. Chairman, this is one point I would like to emphasize.

The industry fully supports the federal Bill 103, and if you will remember, this died on the Order Paper and it will be coming up this fall, I understand, from the Minister of Finance. Now, some of the highlights of this bill emphasize the character and fitness tests

for directors, officers and senior executives of trust companies, and our association and the industry fully supported that, and we think this is basic.

The Bank of England has character and fitness. The Federal Reserve Board in New York and the Federal Reserve in the United States all have character and fitness tests. In Canada, for many years we have not had these character and fitness tests, and with character and fitness tests it means that people that either are directors, senior management and so forth really are well regarded by their peers. And I think this is very important and this is probably a cornerstone in protecting not only the financial service industry but any industry; I think it is most important, and we have fully supported this.

And further, we believe in strong regulatory control. We believe in strong corporate governance, well qualified independent directors and the fact that each company should have a separate audit committee, an investment committee and a business conduct committee. The Royal, for example, I think they call it the business conduct review committee. Whether you call it that or a business conduct committee, we firmly are anchored to that concept, so that they can review possible conflicts of interest. And further, we believe in full disclosure to the public, and by that we mean through annual statements, quarterly statements and so forth.

At the outset, I cited four issues we raised in our brief as basic to any discussion of corporate concentration. One, what is the level of concentration in the particular industry under discussion? And our reply to that is, we conclude there is some degree of concentration in the financial service industry, but we do not feel that this concentration in itself should be of major concern to policy-makers. What should be of concern are the effects of this observed concentration on competition, market efficiency and the interests of the consuming public.

With regard to these issues, we do not believe that a problem exists. However, we do believe that improvements to the situation could be achieved by alterations in current public policies in order to reduce these barriers to entry and to increase the ability of individual institutions to compete in the marketplace. What we are saying there is there should be an ease of entrance, as long as they fit in with the qualification that we stated. Let's have more competition. The companies that are already in it are prepared to do it, and probably in the long run, it is to the benefit of the consumer.

Two, does the concentration that exists threaten the public interest or the interests of the consuming public? Our answer to the question is, not at this time. We have seen no evidence that the ownership or structural changes which have occurred over the past few years pose threats to the public or to the level of competition. Indeed, we believe these changes have improved the situation.

Further improvement could be achieved by making

long-advocated and awaited changes and legislative and regulatory reform or systems which would enhance the abilities of financial institutions to diversify their assets and liabilities, and to expand the range of services which they can offer the public. And when I say services, it is services or products. In fact, if you will remember on this, the RSP started--many people just sort of thought it was a new product on hand lately, but it has been on the marketplace since 1957. But very few people back in 1957, unless they had a very skilled financial advisor, even knew what an RSP was. But it is lately, since the advertising, the competition, and now of course it is in the billions of dollars, and in the long run, when they are converted either to risks or annuities they are going to make a tremendous change to the lifestyle of many Canadians and certainly enhance their senior years of pensions and so forth.

Three, what factors have been instrumental in allowing any observed concentration to emerge and persist? We believe that the answer to this question is clear: existing levels of concentration in the various sectors of the financial service industry have resulted largely from past legislative or regulatory policies. These have established barriers which have stifled competition by preventing qualified and capable financial institutions from expanding the services which they can offer to the consuming public, and by preventing new firms from entering the market. Furthermore, governments in the past consciously promoted concentration in the banking industry through policies which actively encouraged bank mergers, made the formation of new banks exceptionally difficult, and, prior to 1980, prevented the entry of non-Canadian banks into the marketplace. And of course, since then you have had the Schedule B banks, which I know you are fully aware of.

Four, are there grounds for government action, and if so, what remedies are likely to be most effective in assuring that the concentration does not pose a threat in these areas in the future? The answer to the final question is also clear and unequivocal. Government actions are indeed needed, but they should not take the form of additional restrictions or barriers. Rather, they should take the form of changes to the existing legislation and regulatory systems designed to increase the operational flexibility of financial institutions in each of the four pillars, and to reduce the existing barriers to entering competition.

What is not needed are further regulatory impediments that would constrain investment in the financial services industry and hamstring the ability of institutions to adapt and adopt to changing market conditions and demands. This should not be viewed as a call for deregulation. It is a call for rational re-regulation, designed to place greater emphasis on market force and, at the same time, to provide measures which will ensure sound, fair and honest business behaviour. We firmly believe that accountability is most important. When a company has one or more major shareholders, management has another layer, you might say, of internal regulatory control, and that is accountable to a major shareholder or shareholders as well as to the strong body of outside directors.

Royal Trust in their appearance before this committee made some very strong points regarding major shareholders, and we fully support the points that they made. Major shareholders can provide important equity capital, which is the engine of growth and ultimately of competition. The financial support of major shareholders can also backstop a financial institution in troubled times and thereby protect the interests of depositors and shareholders. A fundamental value that a major shareholder can bring to the financial institution is leadership to management, both in terms of direction, succession and ensuring management's overall accountability.

And I believe--I think it was Mr. Eaton, when he appeared before you, cited the Royal Trust in past years and the Royal Trust now, the return in equity, the great progress that has been made, the difference in profits and products, and I think he even mentioned the morale in the company. And the Royal Trust of, say, five or six years ago, even though it is a company that has been in business since I believe 1898, is far superior today on performance, and part of this is because of the management, the new management that the major shareholder put in place, and the difference obviously has been night and day.

An emphasis on the number and the role of independent directors on the board of directors, accumulating voting rules for the election of directors to facilitate minority shareholders' representation. And again, this was mentioned just with our last--with Mr. Lambert and Mr. Hawkrigg: entry of participation by senior management to ensure mutuality of interest with all shareholders.

Mr. Hal Jackman, President of E-L Financial Corporation, also pointed out in his appearance before this committee that in the U.S. and other western countries, a strong shareholder presence has always been encouraged as an added protection for depositors, as a means to ensure management accountability.

Canada has a strong and remarkably sophisticated financial system for such a small country. It has withstood the test of time for over 150 years. There are more things right in our financial system than wrong. These are the elements that should be nurtured, not discarded. The financial services industry and the trust industry in particular have weathered two world wars, a deep depression, several recessions--the latter one in the last few years--and with few exceptions has weathered them well.

There have been numerous studies and hearings both at the federal and provincial level, and most of them unfortunately have focused more on attacking the system than identifying the strengths. In fact, I would go so far as to say that the financial services industry has been studied to death. And I can tell you, Mr. Chairman, that certainly in the last 12 years I must have appeared in front of maybe 20 or 25 committees, going back to the select committee in

1974 and 1975 in Ontario. I have been through the Senate, the federal--I have been through at least 15 or 20 Finance Ministers, I do not know how many changes of government. In fact, in this last week or so I kept pulling out one after another--reviewing comments on concentration, conflict of interest and so forth, and really when I come down to it it seems that we just keep attacking this where we should be moving on a very, very positive sense. And I will refer to that a little later.

Mr. Chairman: Surely more federal than provincial.

Mr. Potter: Yes, you are absolutely right.

Mr. Foulds: The Select Committee on Company Law was in fact an Ontario committee.

Mr. Potter: In fact, I can say in a very positive sense I remember Mr. Renwick, who I think was in the 1974-75--probably one of the most knowledgeable legislators I have ever met. In fact, it was always a pleasure to even spend hours before him because the penetrating questions he asked and his knowledge of the financial industry was absolutely superb.

Consumers and depositors have been well served in Canada. They have had great benefits from the competitive system, and with a changing marketplace and a global concept, the trust industry must have more flexibility to compete in this highly competitive environment. And while we feel Bill 116, the Ontario bill on the Trust and Loans Act that was introduced on July 10th is a step forward--and I might add here that the trust industry has not had full-fledged legislation since about 1913; so we are a pretty long-suffering industry; we have waited a long, long time--so it certainly was a step forward.

But there are still areas which are too restrictive, and we hope that our recommendations will be adopted that would facilitate and give the trust industry more flexibility to give the consumer the benefit of innovative marketing and competition in the financial services industry.

As Mr. Beck, chairman of the OFC, pointed out in his appearance before you last week, Canada is a relatively small country and even our large companies are relatively small when taken into the global picture. And I guess we are going back to McLuhan's global village concept, no question about it, in communications, technology, all these changes. In fact, I think if I remember, Mr. Beck said that there is a revolution in the financial services industry. I remember him saying that, and there was some question as to what type of revolution. What he meant is that it is just moving so fast. That is exactly what he meant, and I think he explained that a little later. And in his closing statement, he pointed out that "If we are parochial in our views and in our thinking, Canada, and above all Ontario and Toronto in particular, will become a global backwater." I think that was practically the last thing he said. And I talked to him after, and

he said unless we change our thinking to be very positive--and if you will notice, it is the first chairman that has brought in for foreign ownership on the divestment community and so forth, and he is thinking here, because we have to move this way if Canada is not going to become this global backwater that he discussed.

We hope that this committee will take a forward step, and we believe that the points that we have outlined are not incompatible goals. We urge the committee to take a positive approach that will enhance competition, give our industry the flexibility and, at the same time, protect the interests of the consumer.

And believe me, we are just as concerned as an industry, as an association, as the individual companies, to protect the consumer. Because let's face it, we are only as good as how we reflect to the consumer. If we service the consumer--and they talked about cross-selling, Mr. Lambert and Mr. Hawkrigg. They talked about staff participation. You can have all the advertising, all the marketing, all the staff participation in the world, but if you do not give service, if you do not have integrity, if you do not have reliability, you are not going to serve the consumer. You have to see John Smith through John Smith's eyes if you are going to serve John Smith.

And I think this committee is in a unique position--as I mentioned earlier, we have had these over years and years, various committees on concentration, conflict of interest and so forth. But I think there is a bigger picture. Let us take the positive things out of the Canadian financial services, let us dwell on that; let us dwell on the positive sense rather than the negative, and I think that this committee can make a great contribution in Ontario. And usually when Ontario writes a good report--and certainly for the OSC it is a classic example, just about every province has followed the lead of the Ontario Securities Commission--and in many, many things Ontario has been a first. Even on our trust and loans legislation, you at least got the bill introduced. The feds have not. So you have a great opportunity, I think, to do that.

So thank you again, Mr. Chairman, ladies and gentlemen. This concludes our opening remarks. Mr. Inwood and I would be very pleased to entertain any questions from the committee. Thank you.

Mr. Chairman: Thank you very much for your presentation. I think things, of course, are starting to change in the Province of Ontario now.

Mr. Haggerty has a question, Mr. Callahan, Dr. Stephenson and Mr. Foulds.

Mr. Haggerty: Thank you, Mr. Chairman.

Mr. Potter, you talked about the changes in regulations and changes in legislation and that but you also indicated you did not want deregulation in the system. But then you came back and said, we would like to be treated the same as what the banks have, and their

privileges, I guess, in carrying on . . .

Mr. Potter: No, I do not think I said that.

Mr. Haggerty: I thought that is the way that you indicated that you would like to have similar banking rights, I guess it would be, or made reference to that.

Mr. Potter: No. What I said is that we wanted flexibility because in the commercial lending field, in the consumer lending field--and let me step back a bit. Originally, many years ago, really the sole function of a trust company as far as the financial intermediary side was concerned was the making of mortgages. A few years back when the Bank Act was reviewed, the banks were able to move in our mortgage field.

Today, the banks have a higher percentage of mortgages than the trust and loan industry, and one of the facts of life are in Canada that you probably have more branch banking per capita than any country in the world. You probably have, I think, one branch bank for every 2,000 pop. The chartered banks in Canada have approximately 7,500 to 7,800 branches. The trust industry has around 900. So they have taken over the bulk of the mortgage industry, a little higher percentage than we have.

So what we are saying is if that law had been passed many years ago and we had the mortgages, fine. We could have stayed with that. But since we are being narrowed into a narrow segment--and you will find that even the statistics show that the mortgage industry is going to decline.

So what we are saying is that we should have a portion in consumer loans, in commercial lending, in leasing, to give us this flexibility to diversify, to give competition to the credit unions, the banks and so forth, and eventually this is going to give the consumer a better choice of where he goes, whether to get the mortgage, the consumer loan and so forth.

Now, under the present legislation that is proposed in Ontario, they are going to increase our consumer lending. In the past, we have had a 7 per cent so-called basket clause and in there we had to put consumer lending, commercial lending did not qualify, and so forth. But even in the new legislation, what they intend to do is put, say, a cap on a consumer loan, and right now they are talking that a consumer loan might be \$25,000. Now, if you wanted to buy a car, a boat, many things today, you could not do it.

Mr. Callahan: You would get half of it.

Mr. Potter: That is about it. The finance companies will not have a cap. The Schedule B's will not have a cap. The banks will not have a cap. Why put a cap on the trust industry as the size of consumer loans? That is the first question.

Number two, we have now been in consumer loans for a great many years. Royal Trust has a large portfolio of consumer loans. Canada Trust does also. And yet when I looked at their delinquency figures, the delinquency figures of Canada Trust or the major trust companies, Guarantee Trust, are lower than the banks; they are lower than the credit unions; they are lower than the acceptance companies. We have the best record. In fact, when I talked to the Hon. Barbara McDougall when she was Minister of State for Finance, I gave her the figures of the top five trust companies versus the banks. She was absolutely astounded at the record we have. So why would we have a cap on the size of loans? Why would we have a cap on the amount of consumer loans when we have a good track record?

And the other thing, we must be serving the consumer because we have built a portfolio from about here up to here. So we have got the customer and consumer acceptance. We have done the same in the leasing business. Guarantee Trust, for example, has been in the leasing business through their Traders connection for probably about 40 or 50 years, because Traders/Guarantee, if you go back, has been in business 60 years. They have had a tremendous track record. So why should we be cut into a narrow corner by saying, you do not have the experience?

Because that is where it started out years ago: grow slowly, get some consumer loans, when you have had the experience--well, we have had years and years of experience. The track record is good, and the same in the commercial lending.

Mr. Haggerty: But you hear from the bank managers, locally that is, they are saying that the trust companies now are carrying on the same thing that the banks are. You can go to the trust companies, you can have deposits in a banking account, you might say, or in a financial account, and you are open seven days--I am not opposed to that . . .

Mr. Potter: That is what I am going to say, Mr. Haggerty. What is wrong with that? If the bank managers are saying that, then I would say we are serving the consumer well. Years ago, you went to a bank and you either got there at 10:00 o'clock until 3:00 o'clock, or boom, you were finished. Many people today, they can go there at 8:00 o'clock at night. They can go there on Saturdays. We have developed an innovative market in the shopping centres. We got the banks to change their hours. Otherwise we would still be operating like England, and many of the shops over there and even the banks, they closed for lunch hour for two hours, so the consumer was not being served.

Mr. Foulds: That has changed radically in the last . . .

Mr. Potter: Who has changed the attitude? I would say the trust industry has because we are competitive.

Mr. Foulds: No, no. That has changed in Britain.

Mr. Potter: I know it has. I know it has. Changes came about gradually there, but years ago that is the way it was. In fact, I can remember, if you wanted to open an account at Coutts Bank, you had to get three references if you wanted to open an account with five pounds.

Mr. Haggerty: I have one more question, Mr. Chairman.

The other question is, I am looking at--you are saying that you want the same privileges almost--well, as the banking industry has in Canada. Are there any advantages, or is there a negative or a positive advantage to the trust companies in corporation taxes then?

Mr. Potter: I am sorry? In?

Mr. Haggerty: In corporation taxes. Is there any advantage...

Miss Stephenson: You mean, if they had the same role as banks, would that be an advantage as far as the corporation tax situation would go?

Mr. Haggerty: Yes.

Mr. Potter: Mr. Inwood.

Mr. Inwood: I do not believe so. Income is income.

Mr. Chairman: All right. Mr. Callahan.

Mr. Callahan: Well, I was just going to say that in your brief, it does not--at least I could not see it in here--it does not address the questions that seem to be of significant concern to this committee: the question of self-dealing as a result of cross . . .

Mr. Potter: Well, again, this was devoted to the concentration. Now you are getting on the self-dealing. But again, in my opening statement, and I think in the brief but particularly in this opening statement, if you want to control self-dealing and so forth, I think we have said several things: strong regulatory control, which we strongly support; we strongly support the Bill 103. If you have character and fitness, you are going to have people, as Mr. Lambert said, of very, very high moral character so you are not going to have that type of thing that is going to be derogatory.

If you have strong corporate governance, if you have well qualified directors, if you have well qualified management and so forth--and I would think, certainly in the major companies and many of the smaller companies, what has happened is one or two companies fell by the wayside three or four years ago. You are all aware of it. There probably was and there is self-dealing there, but that was an absolute minority, and what has happened is the trust industry, with probably 60 or 70 trust companies, has been tarnished by one or two that happened three or four years ago. Similarly, I guess as far as the banks are concerned, the banks have not had a failure since 1923

until, latterly, these two banks in the west.

So that is why I said that the financial services industry in Canada I think has served the consumer exceptionally well. In fact, I would think we are better served in Canada than we are in the U.S. or in England or anywhere else. And you know yourself, if you go to Florida and you try to cash a cheque, you have all sorts of problems. Even to clear a cheque down there takes 14 days. With our Canadian Payments Association here, you can cash a cheque in--maybe it goes through too fast for some people, but it goes through in about 24 hours.

Mr. Callahan: Is that right? It takes that long in Florida? I might move.

Mr. Potter: In fact, many times if you try to cash a cheque in Florida, they will only cash it--really, you will wait for two weeks. The money in fact--it is nearly impossible to cash a cheque there, and it is the same in England and France, in fact practically anywhere in the western world. That is why the plastics came in. It is nearly impossible. In Canada I think we have probably the best clearing system. In fact, in the U.S. they will admit that. I mean, the new CPA, which is made up not only of the trust industry, but the credit unions and the banks and so forth--I think there are 13 or 14 major clearances--it is working exceptionally well.

Mr. Callahan: Well, do I gather then that you, in representing the association you do, do not have any concerns about the cross-ownership of large conglomerates dealing in insurance, dealing in real estate, dealing in various other aspects that from time to time require money?

Mr. Potter: I would say the view I would take: if it is not affecting the solvency, if it is serving the depositor, if it is serving the community, if it is serving the shareholders, if we are serving more consumers, what detrimental effect could this have? I cannot see any detrimental effect, other than I find some newspaper article from time to time, with huge headlines and so forth, and then it dies out and you will find that probably on page 10 there is a little article and so forth. I think it sells newspapers but I frankly cannot see where it has had a great disadvantage on the solvency of the consumers and so forth. That has not been so. I think where you have had a problem--and the companies that have run into problems--it has been management.

Now, you take the Northland and the Commercial, it was asset, it was management. They do not have a major shareholding. They had probably more problems, and they have had probably a bigger run on CDIC than all the trust companies combined.

Mr. Callahan: Well, we had the President of Cadillac Fairview in here, who I think was extremely candid, and he indicated that--well, he would not give us names; he said there were directors who if they were required to testify under oath would indicate that

they had either denied loans to competitors or granted them, I guess, to--I guess he did not go that far. He just said denied loans to competitors.

Mr. Potter: Well, I read a newspaper article where Mr. Ghert has mentioned that before, when he appeared before committees and others, and he appeared before the Blenkarn Committee and so forth. To the best of my knowledge, I do not think he has ever given names. It is always that "this has happened" or "I have heard it in confidence," or "I have heard"--and I think if he feels that way, then perhaps he should go under oath, give the names and let us get it out in the open. I cannot tell when somebody is making certain suppositions and does not come out specifically. To my knowledge, no.

Mr. Callahan: Yes, but I do not think it is the question of the names. I think it is the question of the potentiality of that happening, and the fact that according to him it has happened, is the significant concern of this committee in terms of cross-ownership.

Mr. Potter: I cannot speak for Mr. Ghert, but certainly to my personal knowledge and Mr. Inwood's, and you have had a lot of other people before you, and I certainly see no evidence and I do not know of any cases. If it has happened, I could not tell you.

Certainly if it has happened in the past, I would think it would be very, very minor. I cannot believe that directors who want to do business would single this one out that I will not give him a loan or I will not do this. It is possible, I guess. Human nature is human nature, but I think I would have to take that with a grain of salt.

Mr. Callahan: Just if I might finally--then I gather that you are coming here on behalf of your association and saying that you do not have any concern about the fact that trust companies are being purchased by a whole myriad of corporate structures and entering into fields that sort of blend the four pillars into one. You do not have any difficulty with that.

Mr. Potter: I think that we are probably the only country in the world that has tried to keep that. All the other countries are blending, blending more and more, and if we are going to compete in this global situation--England is blending them. Deregulation in the United States--well, legislation came in. The event passed them by. They just deregulated. It just happened.

Things are moving very, very fast and this is a global concept, as I said, and I do not think we can stand still in Canada or Toronto and say, look, we had better act this way. Otherwise, we are going to be out of step with the world. We are going to be out of step with Germany, with the U.K., with the U.S. And as the chairman of the OSC says, if we want to become a global backwater in the financial services, this is the way to do it, if we go very parochial.

And I think this is one of the things--I have operated in England. I spent 10 years in England. I have operated in the United States, I was president of a company down there for 14 years. And you will hear even developers or other people in Canada, or Canadians--the U.S. will welcome you because down there, even if we get into development and so forth, you can move fast down there. Here, we are mired with layers and layers of government. You start off to do something in Canada and you end up with a local government, and then you end up with a regional government, and you end up with a municipal board, and then you end up with this and this and this. This is what is making housing so expensive in Canada. You go through about 15 layers of government.

And when I mentioned about these committees--I have been through committees, committees, committees. In fact, I have forgotten the names of some of the committees. But it has gone on and on. And I think we are frying the same old potatoes because some of these things I have talked about, I was talking about 15 years ago. It has not changed. The same questions, just different faces.

Mr. Callahan: Well, hopefully you will see the same faces next year.

Mr. Potter: And that is why I said this committee has a unique opportunity to take the positive approach, and I think what we have been doing in the past is attacking something which I think has served us well.

Mr. Inwood: Mr. Callahan, I think the point that the Trust Association is trying to make is that the contribution of a major shareholder has distilled itself into a direct benefit for consumers. Instead of viewing it as is the glass half full or half empty, it is half full. It has added an element of competition to the Canadian financial services industry and the consumers are the beneficiary. To stop that and to say that is not a good thing would be to remove that and to take away something from the system.

I think another point I would like to make is with respect to the question you were raising with regard to Mr. Ghert's remarks. I did not hear them, but it is not fair to have the industry continue to suffer from innuendo that loans have been--things have been done that have not been stated. I think it has been said before that there are practices that Mr. Ghert's company engage in in terms of the remuneration of their management, the participation in some of the real estate ventures that that company is involved in directly by management, that are part of their remuneration packages, that just would not be something that we would permit to happen in our corporation. Should I be permitted to . . .

Mr. Callahan: You might if you were a subsidiary, or whatever you want to call it, corporately of Cadillac Fairview, would you not?

Mr. Inwood: Well, no, I am talking about what we would do,

and the answer is--it would be analogous to me being permitted to have 10 per cent of the profits of the main branch. Should I be allowed to do that? I do not think so. I think you should look at some of the practices that they do, which are the sorts of things that management-controlled companies can do without the balancing interest of a mixed public shareholding. Those are the sorts of things that they may do without some other accountability. We could not do that.

Mr. Chairman: Just for the record, Mr. Bond has given me a list of 15 Canadian trust companies that have failed in the last five years--loan and trust companies.

Dr. Stephenson.

Miss Stephenson: Mr. Potter, how would you respond to the statement from the banking industry that if indeed the other financial institutions that make up the four pillars want to function in exactly the same way as banks, or if banks want to function in exactly the same way that they do, that they should all have the same rules to play by?

Mr. Potter: Well, first of all, I do not think we are all trying to move on banking. As I said to Mr. Haggerty, what we are trying to do is say, fine, can we have, say, 10 per cent commercial, maybe so much in consumer and so much--that is not getting 100 per cent into banking.

Miss Stephenson: Yes, but you said no caps.

Mr. Potter: No, no. I said no caps on a consumer loan, say a \$25,000 . . .

Miss Stephenson: But you want a cap on the proportion that is permitted.

Mr. Potter: I said on the 10 per cent. That might be stretched. But I am not saying no cap, so that 100 per cent is in commercial loans or 100 per cent in leases. No, I did not say that. I said that right now we have got a 7 per cent basket clause, but Ontario is suggesting a 10, a 10, a 10 and a 5, and that is fine. We can operate under that base. What I did not want is a cap on a loan, particularly on a consumer loan, or something on--on the leasing, put a cap on. But if we could get a 10, 10 and 5, I think our companies would be very pleased.

Miss Stephenson: So what you are asking for is a slight blurring of the divisions between the pillars but not an elimination of the . . .

Mr. Potter: Exactly. That is right. A flexibility to diversify. We cannot do it with 7 per cent when we have lost a certain portion of the mortgage market. So we have lost a certain portion of mortgage market; give us the flexibility to get into leasing, into

consumer loans, into commercial lending on a limited basis, not 100 per cent, and trust companies for example would not be making the sovereign loans like the banks do; they would not make the Dome loans.

In fact, even the commercial lending that we can do now, usually, unless you are a very large trust company--quite often, they are syndicated between two or three trust companies. It might be two trust companies and a Schedule B bank, and in some cases it is even with a trust company and a chartered A bank, an A bank. In fact, our losses in commercial lending--and Mr. Inwood would probably give you Royal Trust, but Royal Trust's losses in the commercial lending area are so minimal, it is unbelievable.

And the other thing you have to remember in trust companies, when we take a loss, we have to write the loss off in one year. We do not spread it over five. Under the Bank Act they can spread their loss over five years. We cannot. We have to take the loss in the year it occurred.

Miss Stephenson: But you are not suggesting that that bank rule be extended to the trust companies.

Mr. Potter: No. We have never said that, no. We want a limited flexibility to diversify so that we can serve the consumer and be a stronger identity in the financial community. That is what we are saying. I think the insurance companies are saying the same thing.

Miss Stephenson: You are convinced that in spite of the capability of the trust companies now to be innovative and flexible and accessible and easily approached by the consumer, that it was simply because of the change in the legislation which allowed the banks into the mortgage area that you lost that.

Mr. Potter: That is where it all started.

Miss Stephenson: Can you tell me why the trust companies did not become innovative and approachable and accessible back in the days when they opened up that Act and sold the mortgages, rather than allowing the banks to supersede them in the mortgage area? If you are so damned good, why were you not good then?

Mr. Potter: Well, I guess, number one, that was 30 years ago. Number two, 30 years ago, you had trust people--old-time management. In other words, they probably came up through the 1920s and the recession, and they were coming up--so they did not have these ideas.

And again, it comes back to major shareholders, and I think you can take Royal Trust or Canada Trust, or Guarantee or any of the others--they have new management today, new thinking. We hire people in marketing. At one time, the trust industry probably would not spend half a million dollars on marketing in the whole entire industry. Now we spend money on marketing. Now we have this

motivation of people and so forth. You have new . . .

Miss Stephenson: The banks did not either 30 years ago. They were even more conservative than the trust companies were.

Mr. Potter: But they changed, and the banks are changing now, and the banks are going to have to change even faster in this global concept. But where they have had an advantage for many years, they have been in the U.K., they have been in the Caribbean. If you go to Barbados, you will see some of the Canadian banks are the biggest banks on the island. They are the same in Nassau. But we have been domestic. We have not had the--if you do not have the return in equity, you cannot expand. It is only latterly we have been able to get some flexibility to be able to expand, get the return on equity.

And I think the other thing, if you are hiring people you have to have an industry that is going to attract attractive people, whether they are MBA's, from industry, or marketing people. Today you have management that makes it attractive so people will come and work in the trust industry. They know they have got a future, and there is a big difference. Years ago--in fact, I would say 20 or 30 years ago, when somebody said trust industry, "Yes, I know the trust industry; I think it opened after Mr. E.P. Taylor's estate, Mr. McDougall's estate and some of the others," and that is what the common--everyone thought a trust industry was looking after some huge estate and that is what it amounted to. Now we have gone public on the street, advertised, and we have changed the hours and so forth, and that is the difference.

Miss Stephenson: Well, those of us who had relatives who functioned in the trust industry even in those days knew that they did not do just that. But I think you have to take a little bit of the criticism along with the kudos, and I am not sure that the industry has been lilywhite or gilded in all of its areas of activity.

Mr. Potter: Dr. Stephenson, I agree with you.

Miss Stephenson: But you are not asking for an open door as far as the function is concerned, and therefore you believe that there can be differences in governance as far as the . . .

Mr. Potter: Absolutely.

Mr. Inwood: Dr. Stephenson, the key issue with the legislation for the trust industry comes down to the fact--it comes down to this: the rules that have been proposed in the Province of Ontario are in a post-Crown Trust--were established in a post-Crown Trust environment. They have been drafted in a way that they will control very tightly the types of transactions that trust companies may engage in with people who may be related to them. And what the industry is saying is, we believe that that sort of protection should be afforded but that the rules have gone too far. They are too strict and they will be too difficult to operate by.

We are not today talking about whether we should have 10 per cent or 15 per cent, or some quantum of ability to deal in a particular market. It is just the freedom to operate in the markets that the legislation has given to us, and that is really the issue. And what the industry is saying and what we said last week when we were here was that we support the legislation as far as it goes. It is 90 per cent of the way there. We think it needs to be slightly modified to take the rigidity out of it, to allow us flexibility in those areas where we know we cannot predict where we will run into problems with loans or investments or certain activities being permitted or not permitted.

We find today that when we look at it and sit and think about possible types of transactions we might be involved in, the rules create a problem for us. We just need to balance things, and slightly ease and balance those rules with another mechanism, which is assigning a role to directors inside, to say all right, the rules police 90 per cent of the activity. Give these directors 10 per cent of the activity and let them police the rest of it. And with that balance, the whole thing would work. And that is really the key of what we are asking.

Mr. Potter: And it would be an adjunct to the regulators. In fact, it would help the regulators and probably take down the cost because you cannot have 10,000 regulators; you cannot have 10,000 policemen on the beat. This would work together.

We believe in a strong regulatory, we believe in character and fitness and so forth, because if you have people of very high character in the trust industry or in the financial services, then I think a lot of your problems are going to disappear.

Miss Stephenson: But what you are really saying is that what you need to police is those who are involved in the financial industry.

Mr. Potter: Exactly. Exactly. In fact, I would say even to the degree--even in the association. Now, you see, under the Bank Act all banks, whether A's or B's or so forth, are forced to belong to the association. That is the legislation back to 1895. The trust industry can either belong to the association or they can opt out, and many of the companies that the Chairman mentioned, I can tell you that most of those did not belong to the association. The Continental and so forth, they never belonged. Now, we could not absolutely have self-policing on them, but we could sure use a lot of moral suasion because...

Miss Stephenson: It might have been difficult...

Mr. Potter: If a certain trust company is sitting in a meeting across from...

Miss Stephenson: With the Charter and the human rights codes at the moment, if you made it mandatory.

Mr. Potter: I think we could be very helpful.

Miss Stephenson: Well, I am not sure you can make it mandatory in today's climate as far as membership in the association is concerned. But you could make it attractive. But the concern about the admission of those individuals who are going to function as principals within this area is obviously, you are saying, a very vital one, and you want the opportunity to help to write the rules as far as the moral integrity and capability of . . .

Mr. Potter: And I think we can be very helpful to the regulators and we have been. And I must say this, that Ontario--we worked with Ontario quite closely on some of the things, the regulatory controls, and with the federal government too. But I think that we still have a way to go, and hopefully when we appear before either this committee or the Administration of Justice committee, that maybe some of the things we are going to suggest, I think you are going to find the regulatory people are going to say fine, we will go along with you. And I am hopeful that when we get a committee like yours that now has the background and experience--I think our problem in the past is that every time we go in front of a committee, it seems to be a new committee. They are not familiar with our industry, and I agree, our industry is a very complex industry and it is not something you just pick up overnight.

Miss Stephenson: Well, we would like to suggest to you that you suggest to the Minister that 116 come before this committee because then you would not have to have public hearings, but you could help us with rewriting of the regulations.

Mr. Chairman: I am not sure, Dr. Stephenson, you really mean that, because we could be setting a bad precedent if we were going to start looking at clause by clause of Bill 116. However, there is no doubt that this committee is going to be here for a long time and we are going to be on your back for a long time.

Mr. Foulds: We could have cross-membership on committees!

Mr. Potter: After listening to Dr. Stephenson's remarks and yours, we would be most helpful--anything we can possibly do to make your job easier, our job easier, and to serve the consumer, that is all we want. I mean, we do not want all these rocks and shoals along the way. They do not do us any good, the bad publicity and so forth.

In fact, what we would like to see is where these faults have occurred, have criminal action against someone. And we said that in front of the Commons committee, the Blenkarn Committee, and we said it to the Senate. If there is a case where there is such a serious conflict of interest or something that is going to go to the solvency or the depositor or anything else, then I would say lay criminal charges and make them tough. Mr. Jackman said that, and many others.

Mr. Chairman: Were Greymac and Seaway members of your association?

Mr. Potter: One joined but never attended. I met Mr. Rosenberg, I think, once in my life. The other fellow from Seaway--I know his name and his picture from the paper, but I never met him in my life.

Mr. Chairman: Mr. Foulds has a question.

Mr. Foulds: Well actually, my first question is, who is the Trust Companies' Association of Canada Inc.?

Mr. Potter: Who is it?

Mr. Foulds: Yes. Who are you?

Mr. Potter: Well . . .

Mr. Foulds: Give us some of the fundamental ones.

Mr. Potter: All right. Royal Trust, Montreal Trust, all the major--Canada Trust and so forth. It is comprised of 40-some-odd trust companies. In fact, I guess if you want the list, I can--Atlantic Trust, Cabot Trust, Canada Trust, Central Trust, Community Trust, Co-operative Trust, all the way through.

Mr. Foulds: If you could just file that with us. But 40 roughly out of how many trust companies in Canada?

Mr. Potter: When we say the number, you have to remember--I think there are around 70, but some of them are sort of closed-in trust companies. Some only deal as vehicles and so forth. But of the active trust companies--the trust companies in this association do 98.9 per cent of all the trust fiduciary business in Canada.

Mr. Foulds: Okay.

Miss Stephenson: If I may interrupt, at the beginning of these hearings, a representative of the trust industry informed us--no, it was not; it was the Deputy Minister of Financial Institutions--informed us that there were in fact 100 trust companies operating in the Province of Ontario.

Mr. Foulds: In Canada, I think.

Miss Stephenson: No, they were Canadian. Twenty-seven or twenty-eight of them were in fact registered--or incorporated in Ontario, but there were 100 Canadian, some of which were operating--who were operating in the province.

Mr. Foulds: Yes. I would have to check that.

Mr. Potter: I think that number is a little high, Dr. Stephenson. I believe it is a little high. In fact, even in our association--like, we have Trust Generale and Sterling Trust, and there is one other trust company, for instance, they control; it is in the Eastern Townships. We do not regard it as a member because it is a part of Trust Generale. It is called Sherbrooke Trust, it has been in business for 100 years. And that is primarily I guess because of a fee basis--if we charged three when they are all in one. So I think I remember that. Someone said there were 100 trust companies. I think that is a little high. I would like to check and I will be glad to get back on the numbers and so forth.

Just a minute, Mr. Sayers has given me a number. As of--I will leave this with you. This is our general information book, 1986, so it is on the 1985 figures. There are 69 deposit-taking trust companies in Canada. And I will leave this with you, it has got the statistics and so forth.

Mr. Foulds: You indicated, and I do not think I am misquoting you, but correct me if I am--you said that concentration in and of itself is not a problem.

Mr. Potter: I am sorry?

Mr. Foulds: Concentration in and of itself is not a problem?

Mr. Potter: I do not think it is a problem, no.

Mr. Foulds: But surely it is a danger signal that in conjunction with other factors could lead to a problem. For example, when your association was not so active in the consumer business and when the major banks were the only ones who provided, in essence, banking services, there was relatively little consumer service. I mean, I remember the days when you had to be at the bank between 10:00 and 3:00.

Mr. Potter: And very little competition too.

Mr. Foulds: And very little competition. So concentration can be a problem, and surely to . . .

Mr. Potter: It can, but if you take these other factors that I said--the corporate governance and all these other factors, I do not think you have a problem then. And if you qualify with your peers and if you put strong penalties in, I do not think someone is going to go beyond the pale if he knows there are strong penalties.

Now, Mr. Rosenberg's case happened, what, three and a half years ago. I know there have been thousands of dollars spent in investigations but to my knowledge, I think he is still down in Florida. I think some charges were laid. I think he appeared in court. But I have not heard anything further about it. And I guess as time goes on, what is going to happen? I imagine witnesses and things are going to

disappear. I mean, are we going to do something 10 years from now?

I mean, as far as the industry is concerned, somebody violated the trust and loan and did certain things, and there is no question it had an adverse effect on our industry and it had an adverse effect on the banking industry. And the one thing that the banks, ourselves, the credit unions, life--we all have in common, and that is confidence in the system. And this hurt confidence in the system. You can remember down in Newfoundland, somebody made a statement, there was a run on the bank, and even in the branch they lost something like half a million in one day. This is what he did. So I think something should have been done then. I think what we are doing now is too late. I do not think we can do something in 1995.

But out of all these hearings--like Mr. Lambert said, we have learned from you, from the committee. But we recommended many of these things. Many of these things in Bill 103 and the federal act, many things in Ontario--we worked with the regulators, we worked with Dr. Elgie. I thought he was a superb Minister and he did it under very trying circumstances. I think your present Minister, Mr. Kwinter, is superb, and I think somebody mentioned yourself--when your deputy minister was here--you have got a financial service ministry now. Their focus is on a particular thing. You have got higher qualifications; you have got a better staff; and on the federal level, the IG's office--as Mr. Blenkarn said, it was a team deal. And I believe it; there were only about four people there. I think that has changed.

And I think all these changes are for the better, and I said that in my statement. These things have brought about certain things. Things have been corrected, and I do not think the problem on this concentration is the bogeyman that the press makes it out to be.

Mr. Foulds: But surely . . .

Mr. Potter: I would be more concerned about the press.

Mr. Foulds: . . . as part of our public responsibilities, we have to take into consideration something like concentration, which has given us a problem and which could potentially give us a problem. I mean, we have to consider that.

Mr. Potter: I realize that, and I . . .

Mr. Foulds: And I do not think we can just ignore that as a problem by saying there are better people in it now and we recognize the need for self-governance and other--I mean, we have to find mechanisms to ensure that that happens.

Let me go on. Sorry, you wanted to comment?

Mr. Inwood: Can I just comment that--you said there may have been problems with concentration in the past. Markets may have been concentrated. Maybe the markets were perhaps more

concentrated. There were less players in them. There were less Schedule B banks. There was less activity in the trust companies. So the markets may have been concentrated.

What we have pointed out, what we ask the committee to consider is that today markets are quite--they are not concentrated; they are very active. They are very competitive markets. What there has been--institutions are now closely held in the non-bank sector. So there has been a growth in closely held institutions. That is a fact. But the flip side of it has been, that has resulted in more competition in the marketplace. So I think you are mixing up two ideas, concentration of market and concentration of ownership.

Mr. Foulds: No.

Mr. Inwood: What we have said is that if you use--if you draw the line and say, well, the way to allay any concerns that ownership may impair competition--if that is the method you choose, to control ownership, all that we submit as really happening is that you are throwing out the advantages that a shareholder can bring to the table and you are still left with the possibility that management-controlled companies can run amok. So you are discounting that and you have still got the other problem.

Mr. Foulds: But ironically, concentration can also lead to instability.

Mr. Inwood: I beg your pardon?

Mr. Foulds: Ironically, concentration can lead to instability.

Mr. Inwood: I do not think it . . .

Mr. Foulds: Concentration of ownership can lead to instability. I mean, that is what happened in the famous collapses.

Mr. Inwood: I do not think that that is inherently . . .

Mr. Foulds: It does not necessarily happen, but it did happen.

Miss Stephenson: In Canadian collapses?

Mr. Inwood: It is not an inherent--you can also say that concentration leads to strength. I mean, the risks posed by it are entirely related to the way institutions conduct themselves and are permitted to conduct themselves.

Mr. Foulds: That is right. Okay. But you see, what I find--I have not quite been able to articulate this or think this through--find difficult in the presentation is that on the one hand you say you believe in a strong regulatory presence as one of the safeguards.

Mr. Potter: Right.

Mr. Foulds: And yet, in the latter part of your brief, you indicate that regulation has inhibited the industry.

Mr. Potter: No, no. There are two things here. There is regulatory, and a product. What we are saying as far as regulatory is, we believe in a strong regulatory. In fact, at many hearings I have said, let us upgrade it and you have to pay more dollars, get a better class of people in the regulatory, and I think that is being done. In fact, you have Bryan Davies, a very strong Deputy Minister. You have some very, very good people there. There is no question about it.

What we are saying, what Mr. Inwood was saying, that on the regulations--and what I might say is product, getting back to this consumer or certain things like that--that is what we mean by regulation. Regulations are one thing. Regulatory is another.

Mr. Foulds: Do not regulate this stuff, but a strong regulation in terms of the corporate review and behaviour and so on.

Mr. Potter: Exactly.

Mr. Foulds: But less regulation on the consumer and the product side.

Mr. Inwood: The rules, the draft legislation . . .

Miss Stephenson: Different regulations, not . . .

Mr. Potter: The word is "different." Thank you.

Mr. Inwood: So the draft legislation breaks the concept of a restricted party. So today we have--if I can back up--today we have in the rules what can be referred to as a selective ban on related-party transactions. That is what the Ontario act has today. The new act goes further and extends that ban, and then creates also this concept of the restricted party, the guy that you cannot deal with.

That guy, that new concept, just goes a little bit too far. It has practical consequences, such as Royal Trust might have to move out of the tower that it is in because the landlord happens to be Cadillac Fairview, who is related through--you know, things we do not think about. It throws off those kinds of practical problems. And what we are saying is, the policy objective of not wanting an institution to do business with certain people--rather than say you cannot do business with these people, modify the rule a bit and say, have somebody be there to be the policeman to make sure that if you are going to do business with those people, and when it is perfectly legitimate and valid, and market rates, and by all commercial tests is a good transaction, have some policeman there to look at it and say, fine, that is a good one, let it go.

Mr. Foulds: And that is a fair deal. It is not a . . .

Mr. Potter: And if you have this conduct review of independent directors--let me give you another example. For instance, if we are dealing on the fiduciary side with a pension fund, under these regulations, if the pension fund wanted to get some type of commercial lending, we would be prohibited, even though that pension fund--we could not do a thing. And you will have this Chinese wall. It has worked in the States. I think even Lawson Hunter--we personally went back years and years. We contacted various banks, regulatory people in the U.S., "Have you ever seen or do you know of any specific cases where this Chinese wall has been derogatory, has not worked?" And they say no. And we talked to Chemical Bank, we talked to many regulators down there.

Lawson Hunter, as you know--I do not know whether he testified before you, but he has testified certainly in Ottawa. You have read many of his papers and so forth, and I think all of his testimony has said, we think it works. And I think that even he has said, and he was head of the Combines, that he does not see--in fact we quote him in our brief, because he did not see any real danger in this concentration.

Miss Stephenson: The new director said the same thing.

Mr. Potter: The new director said the same thing, and I think your Chairman of the OSC has also said the same thing, and as I said, he said if we become too parochial, we are going to hurt ourselves, and this is what we are trying to avoid. Here is a small country. Like, here is Switzerland. They are small. They have got a great reputation for banking and so forth. We can move in that. But if we are going to be hindered and hindered and hindered, you will never move into that global market, and this is what the country is going to have to do if we are going to bring these invisible earnings back to Canada.

And I think in Canada we are pretty good at banking or the trust business and insurance, and so forth. In fact, the insurance business, most of their income comes from the U.S. or from some other country. It does not come from Canada because you can only insure so many people. There are only 25 million. So their market is the U.S., the Caribbean, the U.K. and so forth. Sun Life, Manufacturers--that is where they get their money.

Mr. Foulds: Have you been in sales for part of your life?

Mr. Potter: I remember Diane Francis today said she was evangelical. Maybe I am.

Mr. Callahan: In fairness to Stanley Beck, he was not talking about this. He was talking about the Combines Investigation Act, where you have to put a detriment in the market. That is really as I read it.

Mr. Potter: I have not read the book. I will find it . . .

Mr. Callahan: Oh, it is not in the book; it is in your brief. You refer to Stanley Beck, but that is not what he is talking about. He is talking about the Combines Investigation legislation.

Could I have a supplementary?

Mr. Chairman: Mr. Foulds has a supplementary, and then Mr. Callahan.

Mr. Foulds: I have two questions that I would sort of like to get on if I could. One is the bank industry, I think, said this morning that you could in fact already move into farm and small business loans and you do not, vigorously.

Mr. Potter: Well, I think probably the answer there, and I do not actually run a trust company, but my guess again would go back to--the banks have 7,500, 7,800 branches, they have been established for many years, and I would think that many of those banks are probably in the farm community. Now, the trust industry, as I said, has roughly 7,800 branches, and primarily I would say, other than V&G and so forth, most of them are in the urban centres. Now, V&G is certainly in rural Ontario, and I assume that--I do not know the figures on farm loans that V&G made. They are in the smaller communities and I guess they deal with them. I do not know. I do not have those figures.

Mr. Foulds: But they claim both farm and small business loans.

Mr. Inwood: Mr. Foulds, the trust industry legislation is structured, as you know, with two levels of controls in it: one to control the lending and investment of a corporation's funds in certain ways, and then there are other quantitative tests and qualitative tests that permit the industry to lend in certain categories that meet qualifying earnings tests or tests of security. Those are the parameters that--that is what the trust industry has to--the door it has to squeeze through to lend to a farmer or a small business.

Mr. Potter: We have to keep sixty-six and two-thirds of it in residential mortgages.

Mr. Inwood: The banks are more free to make working-capital type loans. They are dramatically different than the trust industry.

Mr. Potter: In fact, up until a few years ago, 75 per cent of our assets on the financial intermediary had to be in residential mortgages.

Mr. Foulds: Would it be an area you would be interested in moving into?

Mr. Potter: Sure. It is another product. We have been innovative in the past and I see no reason why many of the companies

would not move in that area. I would say maybe some of the regional trust companies would because they are right there.

Mr. Foulds: Yes. One last question then. You talked a lot about the character fitness test and sort of judgment by peers in order to pass, but I get back to Dr. Stephenson's point about there being a range of people that could be directors that are not even thought of now, that could be capable. Women, on the one hand. I think labour representation would bring a certain aspect of knowledge in terms of business dealings.

How can you open that up? Because I think one of the reasons that Canadians generally are suspicious of the business world is that they see it as a tightly-knit group.

Miss Stephenson: Because it is concentration.

Mr. Foulds: And if I may use the term without being thought sexist, the old boys' network.

Mr. Potter: Do you not think--and I have heard this said many times, this old boys' network and so forth. I think that is overdone. If you go back over the years, I do not think people say, I will put him on the board because I knew his father and so forth. Often they will put people on the board because they know he has got ability, he has done a great job, and not just because he parts his hair right or they have known him for--as I say, his uncle, or something like that.

The other thing you have to remember, in Canada we are a very limited population. There are only so many people who can be on boards, and as Mr. Lambert said, at one time you had banks owning trust companies and so forth, or a percentage of them, and you had interlocking directorships. That is probably where you want to say you had concentration because you had someone on the bank board and on a trust board. The government split that, and that was very true.

But do you know what happened to a lot of the directors of the trust companies? Because the Royal Bank paid so much of the fee and you had certain--and I think Mr. Jackman has covered that--directors of banks, and maybe there is nothing wrong with it, but many of the directors from, say, Canada Permanent, from the various trust companies, once they got an offer to move from a trust company to a bank, at that time they went to the bank. In fact, I can tell you some trust companies lost as many as five and ten directors at that time because the directors were losing benefits, because we do not make loans to directors, we do not do this, but bank directors--they have different rules than the trust industry does.

Mr. Inwood: In answer to your question on what are the tools to introduce more widespread representation on boards of directors, I think if you would buy the concept of an independent director, you are adding to the mix. You are forcing integration of the board of directors. You are going--the selection criteria are going now to be

different by introducing that factor, and I think that is one of the tools that will result in some change.

Mr. Foulds: I remember Tommy Douglas being asked to be a director of, I think it was Husky Oil. It shocked both the business world and the socialist world and it worked out very well for both of them, because Tommy brought an expertise that they did not otherwise have on that board.

Mr. Potter: I think as you will see years go by--actually boards of trust companies are very small. And one time under legislation, if I remember rightly, I think you could not have any more than 22 directors, and at that time we had banks with 55 and 56 directors. So it was a difficult position. But I think Dr. Stephenson brought up a very important point and I think we will take it under consideration.

Mr. Chairman: I must thank you both very, very much.

Miss Stephenson: May I just say I hope that you do not think that I am doing this from a feminist point of view.

Mr. Potter: No, no.

Miss Stephenson: I just do not believe that there has been a wide enough net cast, and I think you have ignored--not you; I am using "you" in the generic form at this point--but I think a very large number of people who could serve the industry very well have not in fact been considered at all.

Mr. Potter: Dr. Stephenson, I agree with you.

Miss Stephenson: Now, how do we solve it? That is the problem.

Mr. Potter: If we can be of help in any way. Thank you, Mr. Chairman.

Mr. Chairman: You have been already.

Mr. Potter: Our pleasure.

Mr. Chairman: Thank you. Until 11:00 o'clock on Tuesday morning.

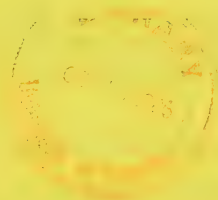
The committee adjourned at 4:40 p.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
CORPORATE CONCENTRATION
TUESDAY, OCTOBER 7, 1986
Morning Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Also Attending:

Hart, C. (York East L)

Substitution:

Callahan, R. (Brampton L) for Mr. Ward

Baetz, R. (Ottawa West PC) for Miss Stephenson

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Tuesday, October 7, 1986

The committee commenced at 11:05 a.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: All right, let us get started. This morning, I would like to first of all have Franco bring us up to date on what is happening with this committee, and some of the most current problems. Then we will move on to discuss the future of this committee after we are finished with corporate concentration.

Franco.

The Clerk: Thank you, Mr. Chairman.

There is a new revised agenda dated October the 6th, for this week. I was just informed that this afternoon, the Ministry of Industry and Trade will not be able to be here, and they are requesting a further date.

Mr. Foulds: They cannot be here?

The Clerk: They cannot be here. That is my understanding.

Mr. Chairman: They could be here, but they would not have very much to say and they would be only requesting more time, and so I thought there was not much point in that happening. He asked if he could come in about a week.

Mr. Ashe: I would suggest a week from today at 2:00 o'clock.

The Clerk: If I may continue, there is a new addition. Tomorrow at 3:00 o'clock, Professor Stephen Dupré has agreed to appear before us, and I shall have his task force report delivered to the members this afternoon, hopefully.

The second addition is on Thursday afternoon. The Association of Canadian Financial Corporations are going to appear. You also have on your desk Exhibit No. 30. It is from the Canadian Life and Health Insurance Association. A letter from the Sun Life Insurance Company of Canada, Exhibit No. 34.

I have contacted the London Life Insurance Company and have spoken to a Mr. Jim Heatherington. They are willing to appear . . .

Mr. Foulds: Excuse me, I do not appear to have the letter.

The Clerk: Sorry.

Mr. Bond: You can use mine.

The Clerk: The London Life Insurance people are willing to appear, but they also informed us that they are part of the Brascan group, and anything they would tell us would be similar to whatever has been said before.

Mr. Foulds: That is called corporate concentration!

Mr. Chairman: That leaves two--is there anything else?

The Clerk: Yes, if I may. I have also contacted the Confederation Life Insurance Company. They will let me know as soon as they can. They are meeting themselves, and they will let us know when they appear. I have also two more insurance--Manufacturers Life, they will let me know when they are going to appear. And Economical Life of Kitchener is going to send us a letter expressing their views on our topic.

This is all the information I have at this time.

Mr. Chairman: All right. That leaves two problems. The first one is Mr. Lavelle and his rescheduling.

Mr. McFadden: Is Mr. Lavelle in Canada?

Mr. Chairman: Yes. But he has just arrived back, and he is apologizing. He certainly did indicate he would be prepared for today, but he is just not prepared for today and would like as much more time as we are prepared to give him.

Mr. Foulds: I move we hear Mr. Lavelle one week from this Thursday morning.

Mr. Chairman: Which would be the 16th.

Mr. Foulds: Yes. That is the Thursday after the House sits, and that is when we are scheduled to meet.

Mr. McFadden: I wonder, Mr. Chairman, if I could ask à propos Jim's motion--I do not know if that was a suggestion or an actual motion.

Mr. Foulds: It is a motion.

Mr. McFadden: Maybe I could speak to the motion as to how we are intending to go from here. If Mr. Lavelle speaks to us on Thursday, we have requests now to the various insurance companies and I gather some of them may appear yet. We have an apparent deadline from the legislature for the end of October. We are scheduled to sit Thursday mornings, effectively, from 10:00 till 12:00 or 12:30, but of course that is private members' hours period, and of course a certain number of times we have to go on to vote.

So effectively we have got, between now and the end of the month, I would estimate maybe six hours. With Mr. Lavelle's appearance and perhaps one other witness next week, let us say, we are down to four hours effectively to work on a matter that I do not think is trifling. When you are talking about billions of dollars in assets and the position of not only the shareholders of these companies, but the employees and the depositors and the policy-holders, my concern really is where we are going to go from here.

I mean, I know--I expect that David Bond will be working on an eventual report, but my experience with these kinds of reports at least is that you cannot do a decent job in considering the recommendations or the content in four hours, and particularly once the House gets back, with us running here and there trying to get into the House and all the general obstructions and diversions we get involved in around here.

So I am very concerned about where we go from here, and I think Mr. Lavelle's decision not to appear does hurt us quite badly, frankly, the committee. I mean, I understand his problem. I am sure he was in China and if he comes back to Toronto now he is not ready for this afternoon, but nevertheless that knocks out a very valuable piece of time and makes it difficult for us as a committee to certainly reach our deadline at the end of October.

So I would just raise that. While I am sympathetic to Jim's motion, it is fine to have him here next week, I think it has quite an effect in terms of the work of this committee.

Mr. Chairman: The only other day that we can use is Friday of this week because once the House sits, as I understand the rules, then we are restricted more.

Mr. Mackenzie has his hand up.

Mr. Mackenzie: In terms of Friday, some of us have already booked in a fairly busy schedule. I know I have at least four reasonably major events that I have simply got to cover on Friday.

Mr. Chairman: I hope the opening of Oktoberfest is one of them!

Mr. Mackenzie: And even if Mr. Lavelle was here--and I think it is important that we hear him, again--I am not sure that the two hours will make that much difference. It is my feeling, Mr. Chairman, that we are going to be in a fairly hectic session in the House; I do not think you are going to carve out much additional time for this committee during that period. And I, for the life of me, cannot see how we can with any authority whatsoever write a report for the end of October.

I think our report may have to be to indicate the topic is

one--and David is right in terms of what is involved, and I think it is an important one--that we are going to need more time. But I would hate to try and draft a report in this committee based on what we have heard by the end of October. I think it is a physical impossibility. Certainly it is an impossibility in terms of anything that makes a hell of a lot of sense, unless the report is one to outline the magnitude of the problem and that we have just really touched on the financial area. And there is so much intertwining, as I see it, whether it is energy or the whole structure problem, that I do not think it would mean a damn thing if we tried to write a report for the end of October. That is just my feeling on it.

Mr. Chairman: I am hoping before we rise today that we will have agreed to, all of us, approach our House leaders and whips to seek more time, and that that will be the major topic of discussion at the House leaders' meeting on Thursday.

Mr. Ashe.

Mr. Ashe: Well, Mr. Chairman, I want to associate myself really with all remarks said so far, so I will not repeat them. I think it would be impossible to do anything for the end of the month. Having said that, I do not think it is particularly unusual for a committee to at least meet its deadline in the sense of tabling a one-page statement--again, it can be very brief--of the magnitude; in effect, what we have done; and in effect ask, as is often done in the legislature, beg leave to sit again. And you know, to put any substance to it, it is going to take that.

I am sure many of us already have some conclusions in our own minds based on what we have seen and heard but it is pretty hard to back it up by enough substantive evidence, whichever way you want to go, frankly, and I think we would belittle the whole process if we tried to do a big report on the basis that we are now all experts and these are all of the reasons why we are going this way or that way. It would not do justice, I do not think, to the system at all.

Mr. Chairman, as far as getting more time, I frankly think you will find that that is going to be exceedingly difficult. I am being very honest. Your caucus in particular has a problem of numbers, and I think you will find that will be the greatest challenge.

Mr. Chairman: That problem is improving daily!

Mr. Ashe: Well, yes. If we get one a week, you will be all right! But in the short term, I am not sure that that is the salvation that maybe you are looking for.

So I think we have got to recognize that we are going to have the Thursday mornings, and frankly are not likely to have very much else. And I do not know that we are ever going to get to the point on the Thursday morning only to finish this topic in any significant detail, because we are going to have to get into what I still feel was the main envisaged role of this committee . . .

Mr. Chairman: You are right.

Mr. Ashe: . . . getting into the budget process leading up to the budget sometime next spring. So I do not know when you are going to do it. And to think that you are going to get an extra half-day or two half-days in a week--well, you are just not. It is just as simple as that, in my view.

Mr. Chairman: Let us bring the--the motion on the floor from Mr. Foulds is that we invite Mr. Lavelle to appear before us on the 16th of October at 10:00 o'clock. Do you have something new to say to that point, Mr. McFadden?

Mr. McFadden: I have one other matter, but let us deal with that first.

Mr. Chairman: Is everybody ready to vote on that? All in favour?

Carried unanimously. I never would have thought so from the debate. All right.

The next issue then is what do we do with the insurance industry, which seems to be sliding out from under our control.

Mr. Foulds: Well, Mr. Chairman, I think David is absolutely right, that we have to discuss--and George, I think, and Bob, have all basically said the same thing: what we have to do is decide what we are going to do altogether, and then we decide what we do about the insurance industry sliding out from under us. And I think we have to discuss the questions that you raised, the questions that all the speakers so far this morning raised.

I do not think that we have bitten off more than we can chew, but I think we have to chew a hell of a lot longer than we have before we are going to digest the topic in front of us. And I think it would be senseless for us to try to write any kind of substantial report by the end of October. And I think that Mr. Ashe's suggestion, that we simply file a one-page or maybe two-page report which says what we have done and the scope of the task, is all we can do.

I think that we have undertaken this task; I think we either abandon it altogether or we complete the job. If we complete the job, which I am in favour of doing, it frankly means meeting in between sessions, not during the sessions, to do that work in any substantial way.

I agree with Mr. Ashe, I do not think you are going to get any more time during the session that is going to make any substantial difference in the amount of time that we get. We might squeeze one hearing out a month or something, but that is not going to add anything substantial over the next three months.

All of us have commitments to other committees, all of us have commitments to the legislature, all of us have commitments to our constituents, and we cannot juggle four balls in the air with just one hand. I suggest that what we do is meet on the Thursday mornings that have been assigned to us, hear further witnesses during that time, and by the end of the session we might have enough before us from those witnesses to write a substantial report in the first week or two in between sessions. That is the kind of timetable that I would envisage on this topic, frankly.

And at that point, we might want to tactically look at corporate concentration either in other sectors, because of the intertwining that we begin to see already, or we may want to then shut down the corporate concentration examination while we get on with some of these other topics that have been assigned to us in the Treasurer's statement.

That is something that we can probably, in my view, make a better judgment on at that point or closer to that point in time.

Mr. Chairman: I have some information to report to the committee on with regard to the plans over the course of the fall and winter, which perhaps you should know about before we get into committing our time to corporate concentration.

Mr. Haggerty: Mr. Chairman, I just wanted to bring your attention to--the previous committee dealing with corporate law met, I think, for almost 10 years back in 1967, 1968, 1969. It went on for almost a period of 10 years.

Mr. Ashe: They were slow.

Mr. Haggerty: No, but I am just saying that when you start dealing with such an important topic as this, you cannot do it in three or four months of, you know, meeting three times a week. You are going to have to--it is going to continue. It is a big area to get into, and I am just saying . . .

Mr. Mackenzie: We cannot afford one or two decades, though.

Mr. Haggerty: No, I just draw that to your attention, that it took them that long and we are still dealing with corporations, you might say, company law.

Mr. McFadden: Yes, but that committee, Ray, as I recall, came up with several different reports over the years, and that initiated amendments to the law. It was not the . . .

Mr. Chairman: I see nothing in our instructions to prevent us from continuing to look at this subject whenever we wish, if we have got the time. The one thing they have asked for is a report by the end of October, and maybe we cannot say very much in that report.

I think when that deadline was put on us, frankly, the

thought was that we were going to be started earlier than mid-September.

Mr. McFadden.

Mr. McFadden: It seems to me, David--maybe you are going to be reporting on this, but from what I have heard, this committee is going to have more to worry about than this report.

I have heard that there is some move afoot to refer some estimates to this committee, number one. We have also got the business about looking at budget submissions or pre-budget submissions; that is a second area. The third one we just talked about, was the idea of looking at Ontario's economic outlook. That came up several months ago; I do not know if that is part of pre-budget submissions or if that is a separate sort of little thing we might be doing.

Plus, I know a couple of the people that have been here from the Trust Association and one of the other witnesses has suggested that this committee appropriately should deal with the proposed new Loan and Trust Corporations Act, because what they are worried about is sending that legislation to a committee and starting this whole process all over again, explaining why this all came about. And I think you could tell the frustration of some of the witnesses here. They keep going from committee to committee, and they suggested it makes sense that at least that act come here to be dealt with in committee.

What I am really going over here is the number of things that could be coming here. I look at this, and we are meeting two hours Thursday morning, dealing with some fairly major areas.

Now, I know the Loan and Trust Corporations Act--I do not know how far that is up on the government's agenda, but probably I would expect that based on good public policy, it should be dealt with soon, whether it is this committee or someone else. And if it comes to this committee, we will not have much time to deal with this report on corporate concentration between now and Christmas, let alone write pre-budget submissions and all these other things.

So I am just suggesting it seems to me there is an avalanche coming down in our direction, all aimed at Thursday morning for two hours. It is not conceivable we could do all of that certainly between now and Christmas.

So I guess what I am getting at, Mr. Chairman, is I think that as a committee it is going to be important for us to determine what the legislature and the government and all the House leaders and so on expect us to do. And then from there, we are going to have to figure out what we can cope with as a committee, given the number of hours that we have available. And that also has a direct effect on what we report to the legislature at the end of this month, because if we come up with a one-page report, as George has suggested, with the idea

that we will come back at it, perhaps as Jim has suggested right after Christmas, we ought to get on with our plans in that way. But we certainly cannot carry on with hearings from insurance companies and everything else and then be carrying on with estimates, legislation, pre-budget submissions and everything else; it is ludicrous.

Mr. Chairman: I am going to cut this off now because the topic was to be what we are going to do with the insurance industry. And I think I should raise with you at this stage for your discussion, because it will assist you in your opinions and deliberations, what I understand to be the thrust of what is going to be thrown at us in the near future.

I understand that there will be an economic outlook paper tabled in the House very soon, and that that paper will be referred to our committee and we will be asked to comment on it. That paper, essentially, is the beginning of the budget-forming process. You have a paper which will tell us where we stand at the moment as an economy.

If we are going to realistically look at it, we are going to need some input from the Treasury. The Treasurer himself, I understand, is anxious to be here for a couple of sessions to look at it with us and then leave it with us. It may be the case that we should be looking at retaining a tax accountant to assess it. It may be the case that we should be comparing it with outlook papers from previous years, and so forth. That will take some time.

Then the budget process itself will take, I think, a considerable amount of time. This government has had two budgets, and the first one, there was an appendix to it talking about this particular committee and it had appendixed to it a list of, I think, over 100 organizations that insisted on seeing the Treasurer.

If we are going to assume part of that role, it might be wise that we ask organizations to prepare written submissions to us and that we pick and choose the extent to which we want to hear oral submissions. Nevertheless, if we are going to have a meaningful role generally in putting together a legislative submission to the Treasurer before a budget, it seems to me to be entirely inappropriate that we would be assigned two hours a week to do all of that, to say nothing of the frustrations we have on corporate concentration.

And that is why I would invite this committee to consider seeking from the House leaders and the whips some more time for sitting. I agree that it is a most difficult thing, particularly for the Liberals. I have discussed it briefly with our own whip, and she has suggested that the most appropriate extra time--to me, the most appropriate time would be if we could sit all the way through Thursday. We could start Thursday morning at 10:00, come back here after Question Period and work right through to 6:00 o'clock. I think it would be a very fruitful day.

I do not know that that is very conceivable. A more agreeable time to her would be Wednesday morning, in view of the fact that, generally speaking, if we are not looking at estimates or doing clause-by-clause we do not need a Cabinet minister with us, and they are meeting elsewhere. And frankly, I would like to have six hours a week, and that may mean meeting in the evening sometime, which I am sure you are all enthusiastic about!

Mr. Barlow: Great idea!

Mr. Chairman: Yes, thank you. I knew you would be, Bill!

So that is the problem. And if we are going to accomplish what the House is really asking us and will be asking us to accomplish in the next several weeks, I think it is important that before the House resumes, we put to the House leaders and whips a very strong position to the effect that we are in a very difficult situation. Now, perhaps we can move to that issue now and deal with it, because I think that is what we were all sliding over into anyway.

And Miss Hart is here because she is going to be coming onto this committee shortly as a permanent representative, and I am very grateful to that and I welcome you. And you want to say something.

Ms Hart: Thank you, Mr. Chairman. Thank you for letting me say something.

Is there any reason, even just for an extra hour on Wednesday, why it cannot start at 9:00?

Mr. Chairman: On Thursday?

Ms Hart: Yes, Thursday.

Mr. Chairman: I have no problem with that. Sometimes the traffic does, but I will just stay overnight Wednesday night. That is a beautiful idea, it gives us an extra hour right there.

Mr. Foulds: We will never get started then, though.

Mr. Ashe: Well, that is part of the problem with any starting time. I can tell you how many people were here today at 11:00 o'clock: the Chairman, the Clerk and myself.

Mr. Chairman: Well, yes, but most people were here by about eight minutes after. If we started at 9:00 and we were going by eight minutes after, then we have gained an hour.

Yes, Mr. Foulds.

Mr. Foulds: I think we are living in some kind of cloud cuckoo-land here.

Interjection: Speak for yourself!

Mr. Foulds: We are trying to squeeze out an extra 50 minutes here and 50 minutes there. That is not going to make any difference.

If you want this committee to meet three times a week, then one of the other committees is going to have to cut down on its hearings, and that ain't going to happen. It just ain't going to happen. The government and the legislature have assigned us this task. We have to, frankly, pick and choose what bits of that we can do in the time that has been assigned to us, and that is it.

I frankly would oppose very vigorously any attempt to sit in the evening. I have sat through 15 years of sitting in the evenings in this nutty location, and any work that you get done after 6:00 o'clock at night is not worth the powder to blow it to hell. And those of you that have been around as long as I have can attest to that, and some of you that have not been around that long.

We can start at 9:00 o'clock in the morning on Thursdays; I have no objection to that. But you are not--you know, what do you get? You get five extra hours for the whole sitting of the legislature. That is what happens. And then you do not get the sittings because you will have private members' hours that morning.

We have been assigned not a big task, we have been assigned an impossible task. And instead of trying to get more time to do an impossible job, I think what we have to do is do what job we can do in the time assigned to us.

Frankly, if you want my choice, I would think that we finish this damn subject that is before us and take a look at the economic outlook. And if we get that done before the spring budget, we will be bloody lucky. And let's do it. Let's not futz around with all these other permutations and combinations.

Mr. Chairman: You are saying this job and the economic outlook.

Mr. Foulds: Yes.

Mr. Chairman: So we would adjourn the consideration of this matter once the paper comes down.

Mr. Foulds: Maybe, maybe not. Maybe we take a look at it and see it is such a thin piece of work that we decide to leave it to two weeks before the budget. We can do it then. Maybe it is such a substantial piece of work, we set this aside. But we cannot make that judgment until we see it.

Mr. Chairman: Mr. Callahan and Mr. Ferraro.

Mr. Callahan: Has all of this arisen from Mr. Lavelle not being able to make it today?

Mr. Foulds: No, we have resolved that.

Mr. McFadden: It gave us the time to talk about it.

Mr. Callahan: It seems to me that--and you people will all be unhappy to hear this, but I will not be with you for the balance of the sittings.

Several members: No!

Mr. Callahan: I am being yo-yo'd to another committee.

But it seems to me--my recollection was that the clause-by-clause of the new Loan and Trust Company Act was going to be done by the Committee on the Administration of Justice. Now, I think you could certainly serve a very fruitful purpose by delivering a report with reference to what we have heard thus far on the question of loan and trust companies. And that could be made available to the Justice committee when they review clause-by-clause.

As far as the question of concentration of ownership, we have heard a little bit about that but really probably read more about it than heard. So I am wondering if the committee would not be fulfilling at least part of its mandate by preparing--and I would think that we could do that at this time, having heard what we did--an overview, at least for the Committee on the Administration of Justice, so that when they got through the clause-by-clause they will not have to hear the witnesses over again; they will have the benefit of the report. And then ask leave of the House to consider the broader question of concentration perhaps at a designated time, be that after the Houses ceases to sit, after Christmas or early in the new year, or--I do not think it is reasonable that you would be able to slot in enough time between now and then while the House is sitting, on an issue of that magnitude.

But I certainly would encourage the committee to put together a report for the benefit of those sitting on the Administration of Justice Committee because they are going to either have to have that report, or they are going to have to go through the whole routine all over again. And I agree with Mr. McFadden that that would--I think that was what you were suggesting, and that seems to me to totally negate anything that has been done by this committee since whenever it started sitting.

So you know, I think that is not an unreasonable approach to take.

Mr. Chairman: Thank you. I think we should include in any report any feelings we have on Bill 116.

Mr. Ferraro and Mr. McFadden.

Mr. Ferraro: Thank you, Mr. Chairman. I will try to be brief. I am not sure this is going to add a hell of a lot to what has

previously been said; however, a couple of remarks.

Firstly, I endorse Mr. Foulds's suggestion that we do not have night sittings. I think the logistics of everybody's timetables just make it inhuman to suggest that.

I do not have any problem about extending, whether it is 9:00 o'clock or getting an extra five hours during the session, or whatever the case may be. I would say to the committee that whether we are dealing with a number of topics that at this juncture are hypothetical, the proof of the pudding is going to be when we finally get our timetable and whatever the House leaders decide they are going to send our way.

I would suggest as well from my own point of view that perhaps the most important, from my perspective, undertaking that this committee will do will be the budgetary considerations. And indeed, in my personal discussions with the Treasurer he was certainly looking forward to active, vital input from this committee in that regard.

The other areas are also exciting, but as indicated by previous members, time constraints just do not permit it.

So quite frankly the bottom line, Mr. Chairman, is I suggest that we do what we are doing, carry on, do the best we can with what we have got. If we get too much on our plate, quite frankly all we do is say, "Look, fellows, there's just no way," and we pick and choose and/or make suggestions. I mean, you know, they cannot ask you to do the impossible. Well, they can ask you, but you do not necessarily have to do that. And I am not too hung up on considering all the matters until we find out exactly what they are suggesting we undertake, and do the best we can.

Mr. Chairman: All right.

Mr. McFadden and Dr. Henderson.

Mr. McFadden: I am just looking at the schedule of committee meetings as adopted by the House on April 28th. It is curious that given the topics that this committee is expected to be looking into and the amount of work that is entailed in it, that we have probably the worst single period of time available.

Mr. Chairman: That is because we are new, though. I do not think they have really looked at us.

Mr. McFadden: No, I am just saying that it is ironical that we are confronted with a schedule like this that leaves us two hours in the morning, when private members' hours are on. Resource Development has three afternoons; the Social Development Committee has three afternoons; Administration of Justice appears at 2:00; General Government has both morning and afternoon on Thursday.

If we are serious about what we are doing, this schedule has to be in some way amended. I mean, if we are still going to be stuck with Thursday morning, then we certainly are going to have to have at least a Wednesday morning, as the Chairman has suggested, or some other time spot. Or we should get off Thursday morning and do some other spot.

I mean, I just think that the Thursday morning thing is ridiculous in view of the workload we have got, even if we unload two-thirds of the list I went over with you this morning, that I have heard may be sent our way.

So I would like to suggest, Mr. Chairman--I do not know if you are meeting with the government House leader, and from our side we can talk to our House leader's office, but certainly if this committee is going to function and do anything, this schedule is completely useless and it does not in any way reflect the workload this committee is being asked to carry.

Mr. Chairman: Would you like to put a motion on the floor?

Mr. Ferraro: Do you need a motion per se?

Mr. Chairman: Well, I was gathering from you and Mr. Foulds that you were not asking for more time.

Mr. Ferraro: Well, not night sittings.

Mr. Chairman: Not night sittings. But you are prepared to sit two or three times a week if necessary, if we can work it in the . . .

Mr. Foulds: No, I am not prepared to sit another sitting unless one of the other committees gets knocked off, because it just is not going to happen.

Mr. Ferraro: I agree with you.

Mr. Foulds: You take a look at the slots and see where you can meet; you cannot. You have not got the committee rooms and you have not got the manpower. Let's be realistic about it.

I think Dr. Henderson has been trying to speak to this for quite some time, so why don't we recognize him.

Mr. Chairman: I think I am hearing a consensus then, I was misunderstanding it, that we--except it includes demanding that some other committees have their hours cut back.

Dr. Henderson.

Mr. Henderson: Mr. Foulds rightly intuit from my vigorous nods that I fully agree with everything he said.

It seems to me that, you know, I think we have all had this

experience that a committee does its job in a little more than the time you set out to do it in. And it does not matter whether it is 5 hours or 3 hours or 500 hours, we are going to be pressed for time and we will get it done. And I kind of think the thing to do is get on with it.

I also had better say that, like Mr. Callahan, I am being pulled from the committee, so you can attach whatever weight you want to my views.

Mr. McFadden: Can I make a suggestion? One minor adjustment that we could make that may not be a problem--but I do not know everybody's schedule--is if we could exchange, for example, Wednesday and Thursday morning with another committee. I do not know what Ombudsman Committee is doing, for example, or Regulated Private Bills Committee, how heavy their schedules are.

Mr. Haggerty: Both Bob and I are on it.

Mr. McFadden: I am sure it is a very important committee . . .

Mr. Callahan: It is key.

Mr. McFadden: What I was going to suggest though, what might be helpful given our agenda, which seems to be quite large and quite fixed, perhaps might even be to exchange mornings. At least that would give us more time, you know.

Mr. Ferraro: I am going to have a problem, Mr. Chairman, a conflict, and I suspect others are going to have a conflict. But one point I would like to clarify, when I said I was in tandem with Mr. Foulds on not sitting at night, I totally am, but I thought I had heard from Mr. Foulds as well that he was prepared to sit an hour earlier or indeed on Thursday afternoon. Can we get that clarified?

Mr. Foulds: I am certainly not prepared to sit on Thursday afternoon. Three other committees are sitting on Thursday afternoon.

I mean, you cannot run a legislature that way. You cannot have four major committees sitting in the legislature. The place becomes a zoo.

Mr. Ashe: No, no, it does not become a zoo; it becomes a worse zoo!

Mr. Chairman: Okay. I think I am hearing a consensus that we can start at 9:00 o'clock in the morning, and I think I am hearing a consensus that we would like more time. And Mr. Foulds is making it very clear that that more time has to be at the expense of another committee.

Mr. Foulds: I am not anxious to have more time, let me make that very clear. If that is the committee's wish and the legislature's wish, I am willing to sit more time, another sitting, provided one of

the other committees gets cut back. And I think you will find that that is the position of all of the House leaders and all of the whips, frankly.

I am not prepared to sit Thursday afternoon when you have got three major committees sitting.

Mr. Chairman: Mr. Carrozza wants to say something.

The Clerk: I do not wish to throw any cold water on your discussion but I think you should be aware that the legislature--three House leaders decided the schedule of the committee. Now, if you wish to meet at other times then you will have to ask them permission to do that. That is according to your own standing orders.

And the difficulty here is that, as Mr. Foulds said, if you wish to meet at another time it is going to be difficult because under our standing orders only two committees can meet at a certain time. You cannot meet on Thursday morning because that is for caucus, and Monday it is very difficult to get down to Toronto for the members. You have to speak to your House leaders to see what time can be given to you, then move a motion to request that.

Mr. Chairman: That is what we are hopefully leading up to, and hopefully the House leaders will grapple with this on Thursday of this week so that by the time the House is sitting again, we will have everything solved.

Mr. Foulds: Let me just say, from a personal point of view, I would be very loath to sit on Thursday afternoon because my plane leaves at 6:30. Unless there is a vote in the House, I do not stay.

Mr. Haggerty: You mean you are only here three and a half days!

Mr. Foulds: You guys may think it is funny, but when you have to fly a thousand miles--I mean, you cannot drive it in an hour and a half the way most of you people can. I mean, it means an extra day of travelling for me. Thank you very much, I can do without it.

Mr. Chairman: Mr. McFadden, I did not understand what you were saying when you suggested we switch with Ombudsman. What would that accomplish?

Mr. McFadden: The only reason I am suggesting that was that the Thursday morning is the worst morning of the week to sit. We of course only have two mornings here to sit, but Thursday morning has the private members' period from 10:00 till 12:00 in the House; during the course of the spring sitting a number of us had to speak in the House, were in there to vote. So effectively we start a little after 10:00, some of the committee members are not even here until 11:00 because they are speaking in the first hour, or others miss the second hour. And then the bell starts to ring before noon, so we effectively are out of here. So we do not even have two hours. We are probably

down to about an hour and a half.

My point on Wednesday morning was at least there is no House sitting, there are no division bells, and we might be able to go through from 10:00 to 12:30 that day.

Mr. Ferraro: Except if we are on another committee.

Mr. McFadden: That was the only reason why I suggested it; I wondered if it would be feasible to exchange times with one of those three committees which may not have as heavy a workload.

I know it is the House leaders' decision and so on, but it may be that one of those three could move over to Thursday because they are not faced with the workload that we have got, I can tell you.

Mr. Foulds: That certainly is a request that is very sensible and one that I have absolutely no difficulty with, that if you have got a fairly heavy committee like ours Wednesday would make a hell of a lot more sense than Thursday morning.

Mr. Chairman: Mr. Barlow.

Mr. Mackenzie: I would have no difficulty with that either.

Mr. Barlow: The only thing I would add is if we are talking about having an extra sitting--Wednesday morning makes good sense for us to meet that day, but if we are talking about having an extra sitting day, Tuesday and Wednesday afternoons only have two committees, as you can all observe from this, and you know, maybe we can get slotted in for either Tuesday or Wednesday afternoon if we want to have a second sitting day between sessions.

Mr. Foulds: But only two committees can sit.

Mr. Ashe: No, there are three shown on Monday and Thursday.

Mr. Foulds: Frankly, the other committees are going through the same argument. The Resources Development Committee has a whole pile of estimates and legislation before it. And there are 490 hours of estimates that have to be dealt with before this House adjourns. There is legislation before the Justice committee that is piled up for a year.

Mr. Chairman: Well, the Clerk has mentioned to us--I think the point he is trying to make is that we are not going to accomplish anything with this debate unless we either pass a resolution or reach a consensus that we approach the House leaders to do something. Am I hearing a consensus?

Mr. Ashe: I think it is that we need more time. At the minimum, we have got to switch days.

Mr. McFadden: I notice that Monday morning--any of the

parties have caucus on Monday morning?

Mr. Foulds: You are not going to get anybody here on Monday morning. Let us talk realistically, for crying out loud.

Mr. Callahan: Awfully testy this morning!

Mr. Foulds: No, but Monday morning you are not going to get anybody.

Mr. Callahan: They are really testy, are they not? All I was going to say was that it seems to me that Monday in the past has been avoided because we were operating under a schedule which said Wednesday was Cabinet meetings, and for our meetings we met on Friday. That was reasonable because it gave people two full days in their riding and they did not have to come back until Monday morning.

Now they have got Friday off, so why could that not be looked at in terms of adjusting that for Monday morning sittings? You would get a full morning there, and you could pick up a full morning someplace else.

Mr. Chairman: Mr. Ferraro and Mr. McFadden.

Mr. Ferraro: Mr. Chairman, for the second time--I think we can go around the mulberry bush here until I grow hair. I do not think you are going to get much movement on the part of the House leaders. Fine, if you want to ask them, go ahead. I have a lot of sympathy with a lot of the discussion that has taken place; for example, if you move to Wednesday, I am scheduled to be on another committee, and you are going to have that--and I suspect that is going to be the reaction of the House leaders. They are going to say the hell with it.

Quite frankly, I do not have any problem with that, if you can work it out. I think it is dubious. I think we have got to work with what is scheduled. At the very minimum I do not have a problem, and I am not sensing anybody else does, with starting at 9:00 o'clock, and quite frankly I think that is the most viable approach to take until we find out exactly what is on our plate, and we do the best we can with what we have got. We grab an extra hour and that is it. We cannot do the impossible.

Mr. Chairman: Mr. McFadden.

Mr. McFadden: Maybe just to get something going here, I will make a motion that we first approach the House leaders about sitting Wednesday morning, with the intent of having one of the committees now sitting on Wednesday sit on Thursday in our place.

Mr. Ferraro: Which one?

Mr. McFadden: I think that is something the House leaders might take a look at in terms of the membership of the committees, and see if it would be possible to move it. But I would like to move

that we seek to sit on Wednesday rather than Thursday morning, and that would give us clearer time.

Mr. Chairman: In place of another committee?

Mr. McFadden: Well, unless they decide to go with four committees, but I think that is a bit much.

Mr. Ferraro: I think you are asking the impossible.

Mr. Callahan: That creates a problem already because Ruben and I are both on regs.

Mr. McFadden: I thought you were not coming to the committee any more?

Mr. Callahan: I am not, but Ruben--Jim Henderson is on . . .

Mr. McFadden: He is gone off too. I am not sure . . .

Mr. Foulds: Can I second Mr. McFadden's motion, and then people can debate it?

Mr. Chairman: Let us hear an explanation again, Mr. McFadden. You are saying we would have an easier morning.

Mr. McFadden: Yes. I am moving that we sit on Wednesday rather than Thursday morning, and that we request--I do not know the official word you may want to use--we request that we sit on Wednesday rather than Thursday morning, and we exchange our time period with another committee which is most feasible.

Mr. Chairman: All right. That motion is on the floor.

I might just point out to the committee that, generally speaking, Wednesday probably will be a day that the media will have less interest in than Thursday because of the Cabinet sitting, but be that as it may.

Mr. Foulds: They certainly have not been cramming at the doors for the last four weeks.

Mr. Chairman: Any other discussion?

All right. Do you want to incorporate in that, that regardless of what happens we will start sitting at 9:00 o'clock in the morning?

Mr. Foulds: That is another debate.

Mr. Chairman: That is another debate? All right. All in favour of Mr. McFadden's motion. Opposed.

Carried.

All right. And now, any other motions?

Mr. Haggerty, you are moving?

Mr. Haggerty: Yes, start at 9:00.

Mr. Chairman: Any discussion? This is regardless of what day, as long as it is a morning session we are talking about. All in favour?

Mr. Foulds: I am going to oppose that, Mr. Chairman. I oppose the starting time of 9:00. I do not know about the rest of you, but I like to phone my constituency office every morning, and I would like at least a half an hour when somebody is in that office to be able to phone them.

Mr. Chairman: Why do you not get them to come in at 8:30?

Mr. Foulds: I phone them between 9:00 and 9:30.

I mean, I intend to take my responsibilities seriously on this committee. If we start at 9:00, that is impossible to do.

Mr. Ferraro: Quite frankly, Mr. Chairman, we all at one time or another leave the committee to make phone calls. I do not think that is necessarily going to detract immensely from your participation on the committee.

Mr. Foulds: I am quite happy to start at 9:30, but I am not going to start at 9:00.

Mr. Chairman: Just going back to the motion, Mr. Haggerty's motion is that we start at 9:00 o'clock if we are meeting on Thursdays, or if we are meeting on Wednesday or Thursday?

Mr. Haggerty: If we start at 9:00, as indicated in black and white, it will be 9:30 before we get going.

Mr. Chairman: Yes. So you are still staying 9:00 o'clock regardless?

Mr. Haggerty: Yes.

Mr. Chairman: All right.

Mr. Ashe: If we want to start at 9:30, it should probably be about 9:12, and then we are all at least 18 minutes late. That will make it 9:30.

Mr. Chairman: Miss Hart.

Ms Hart: I did not vote last time, assuming that I am not on the committee, and Mr. Callahan did not either. Before we take this

vote, can we clarify who can vote?

Mr. Callahan: Only Mr. Callahan can vote. Not only Mr. Callahan, but no, I am afraid you cannot vote.

Ms Hart: That is fine, Mr. Chairman.

Mr. Chairman: All right. Everyone understand the motion? All in favour. Opposed.

Carried.

There is one other area, if I may just discuss the expectations we have with this economic paper. Mr. Bond indicates that he is having some old economic papers . . .

Mr. Bond: I was hoping to get a copy of last year's pre-budget statement for you to have a look at. So far, all I have is the statement to the legislature made by Mr. Nixon on July 11, but I also have a copy of the mini-budget. Oh, it is here now.

Mr. Chairman: I think we can anticipate that when this paper comes down, it is going to be referred to our committee and the legislature is going to ask our committee to review it.

Mr. McFadden: May I ask you what exactly that involves? I can see sitting with Mr. Nixon and chatting with him about his ideas and what is in back of it, but then will we actively beat the bush to get the delegations here?

Mr. Ferraro: He will send them here.

Mr. McFadden: Who will send them here?

Mr. Ferraro: The Treasurer.

Mr. Foulds: I find the arrogance of the new Liberal government increasingly reminiscent of what took the Tories almost 40 years to develop. The Treasurer will send the witnesses here? We will accept what witnesses we choose. Where is your backbone? Don't the Liberal backbenchers have any . . .

Mr. Chairman: Regardless of Mr. Foulds' views, we have an open government, and we want the legislature to partake in the government--in the budget preparation process. Now, I know Mr. Foulds will prefer to be on the phone with his constituency.

Now, perhaps Mr. Bond would like to make a few comments on how we can grapple with this paper when we get it, and whether or not we need some assistance.

Mr. Bond: I think it has been recommended by members of the committee itself that we have personnel from the Ministry of Treasury here before us to provide information as to how the budget

and estimates are prepared. This information should be obtained before the committee establishes its mandate and allocates its time for future work.

Mr. Chairman: You are looking at a paper prepared as a result of an organizational meeting we had on the 8th of May in which Mr. Foulds suggested the committee should hire economists and tax specialists and experts so that we can take positions independent of the government. And we may be at that point.

Do you feel we should wait until the . . .

Mr. Ferraro: I think it is premature, Mr. Chairman.

The Clerk: I think we should look at Standing Order No. 90, the paper just passed down here, regarding the schedule. If you read that standing order, that is your reference in the standing orders of the legislation. Standing Order 90.

Mr. Chairman: I think what Mr. Ferraro is suggesting now is that we have not looked at the paper yet. Is there anything that anybody could be doing in preparation for receiving the paper, or really would we have to wait until we have it before . . .

Mr. Bond: I think we should be getting the paper fairly soon. I wanted to provide you with last year's. "An Economic Outlook" is rather a new--it is a new name for the pre-budget paper that is produced by the Treasury usually every fall.

For 1985, there does not seem to have been one statement. It seems to have been a collection of different statements by the Treasurer. But usually it is produced as one booklet which goes over...

Mr. Ashe: That is where you put out several positions and always refer to the one that was right!

Mr. Chairman: Is that the way you do it?

Mr. Bond: I think it would be good to refer to, as well as last year's statement, probably pre-budget statements made by previous Treasurers as well. We might need to seek special--some expertise in the tax field especially. If members do not feel they have the necessary background, it would be beneficial to have such experts attached to the committee.

Mr. Callahan: Michael Wilson!

Mr. Chairman: It begs a lot of questions . . .

Mr. Ferraro: We can have some names suggested to the committee when we get to that point.

Mr. Chairman: . . . whether or not we can really ever look at anything as well as the whole civil service can.

Mr. Ashe: We can all turn in our non-partisan lists.

Mr. Ferraro: Some of them will be longer than others.

Mr. Chairman: Mr. Foulds.

Mr. Foulds: All kidding and jocular internecine jabs aside, I think it is very important that if we are taking a look at the economic outlook that we have available to us assistance that makes sense. The fact that we may not have all of the expertise available through the civil service to us is neither here nor there.

Frankly, legislative committees in some instances have produced reports and information that is, if you will pardon me for saying so, Mr. Chairman, much more open, much more frank and much more direct than any government ministry in spite of its expertise, because both the civil service and the government have a natural inclination to edit the information they have available in order to best present the case that they decide on. That is their job.

Our job as a so-called all-party, non-partisan committee (ha ha!) but at least as an all-party committee is to look at this matter in the way that we would hope the public would look at it, representative of the people of Ontario. For that, I think we need some help.

The fact that we are not going to get all of the experts and all of the help that we would like should not deter us from at least making an attempt at it. And I think that David Bond is right, that probably the area in which most of us would feel we need some additional expertise initially is the tax area. It is a very complex one. It is one that most of us have a fairly superficial understanding of because we fill in our own income tax and we pay sales tax, but frankly a lot of our understanding does not go a lot beyond that.

I would suggest that perhaps you and David, in consultation with the Steering Committee, make a recommendation to the whole committee about who and what and at what point that should be made available to us. It is the only way, I think, we can get some useful recommendation before the committee to debate sensibly.

Mr. McFadden: When is your anticipation, Mr. Chairman, that this particular process would start? Is it your anticipation that this would be about mid-November? Or when is this statement scheduled to come out? I heard it was November, but am I wrong in that?

Mr. Chairman: It could be sooner than that.

Mr. Foulds: I think the government has moved up its agenda, David.

Mr. Ashe: They are anticipating some event.

Mr. Chairman: I take it from what Mr. Foulds is saying, then, that there might be a direction to the Steering Committee to look at the possibilities and report back to the committee insofar as an inventory of experts. And there is an inventory of C.V.s that was prepared by Mr. Bond's predecessor, actually, that we can perhaps meet and look at sometime in the near future.

Okay. That sounds good.

Any other business?

Mr. McFadden: May I ask one just one matter? Is the potential of estimates coming to this committee--I have heard that that is a possibility from our House leader's staff.

Now I do not know if, David, that is your information or that is the information the NDP have got from their office or not, but I have heard that that is a possibility.

Mr. Chairman: Well, I think historically there was--and this was before I was here . . .

Mr. Callahan: Is that B.C?

Mr. Chairman: B.C., B.D.C. There was a thought that this committee would take all estimates and would become an expert committee on estimates. That really was not the thrust of the Treasurer's statement in October, 1985, and it is not very apparent in the order setting out our terms of reference.

In view of the time constraints on us, I think we--this is one of the picking-and-choosings--we are not going to be able to both have some sort of input into a budget and, as well, look into the estimates of any ministers.

Mr. Mackenzie: I think the only reason it is surfacing is that the estimate hours are just clogging up every other committee.

Mr. Chairman: And the other committees may be saying, let's send it on to Finance.

So that is my reaction, to try--and there has been some suggestion that maybe we should be doing clause-by-clause of Bill 116. Well, you could see other bills down the pike that eventually people would think we might be more appropriate to look at, but I think Mr. Callahan's suggestions in that regard are quite full of merit. Bill 116 has now just finished first reading. We can certainly comment on it at that point, and the Justice committee could review our comments and hopefully not call the same witnesses again. But that is just my own reaction.

The committee maybe feels very differently, but I think if we are going to have some valuable input into the budget we are not going to have time for these other things, especially if we are going

to do a more thorough report on corporate concentration as well.

Mr. Foulds: If I could just speak to that very briefly? I think we should frankly, as a committee, resist very vigorously any attempt to unload estimates on us. It is nuts. We have already got a workload that is astronomical.

I am not so sure about legislation, but I think we should be very choosy, very choosy indeed about what legislation we accept, because once you start that floodgate it becomes awful easy for House leaders, let me tell you, to say, "Oh, well, we've got a problem here." We'll just make them postpone their other work and deal with this."

So that I would deal with that in a very, very careful way because I think if the committee is to be a useful committee it has to, as a number of us have said, choose what it is going to consider and how it is going to consider it. If it is going to be a worthwhile committee, and I hope it is, it has to be seen to be somewhat independent in terms of taking marching orders from the various House leaders.

Mr. Henderson: Can a committee turn down something that is sent to it?

Mr. Foulds: Sure. I mean, if we get a referral we can just--I mean, technically you accept a referral, but there is no time in which you have to consider that. You can just, say, consider that in seven or eight months, and in effect you are throwing it back to the House leaders' laps.

Mr. Chairman: I think the rules would provide, though, that we have to do something. For instance, we cannot just ignore the referral on corporate concentration. We have got to do something.

Mr. Foulds: Yes, you are absolutely right. But you can refer back to the House saying that we have considered this for half an hour and decided it is beyond our mandate. I mean, there are all kinds of ways you can do that.

The Clerk: Also, if the estimates are sent to this committee it does not necessarily mean that you have to use the hours allotted. You can do it in five minutes if you so wish.

Mr. Foulds: Yes.

Mr. Chairman: Maybe if we got that reputation, a lot of ministers would like their estimates sent here.

Mr. Callahan.

Mr. Callahan: You are looking at an area of corporate concentration. I do not think, in my feeling of this committee, that you have any idea yet how broad or narrow that entire topic is. And

what we did on the Health committee, recognizing that it was equally a broad subject, was we got some consultants to map out a plan as to what exactly we were going to look at.

I am not sure that maybe that is not necessary here as well. I mean, you could have people from every sector that you might--once you study the financial aspect of it you are going to then probably go on to other aspects of it, because it is not a very singular issue. I mean, there are all sorts of implementations.

You obviously cannot review this, unless you want to, in its total depth. You should really have a game plan as to what you are going to review, and then you can measure the time that is required for it. I think to go back to the House leaders now and tell them, "Well, we cannot handle it," really does not solve the question. It begs the question, because you will go back to them and they will say, "Well, how much time do you need?" Well, you really do not know. And you will not know unless you get someone who can prepare a plan for you.

And that is exactly what we did on the Select Committee of Health: we got consultants to give us a basic plan, but it was not as far-ranging so you are not going to be jumping all over the place. And I think you really need that before you can even give an estimate of the time.

Mr. Chairman: You are talking about corporate concentration?

Mr. Callahan: Yes.

Mr. Chairman: Well, I would suggest if we do that, that is for a subsequent report. We are certainly not--I think that is something we should look at after we have tackled our interim report, and to what extent we want to . . .

Mr. Callahan: Well, interestingly enough, David, we were required to prepare an interim report to the legislature for this session, and we felt that we were not even able to prepare an interim report without knowing the parameters within which we were reporting. So as I said before, I think the only thing that I have heard at this committee--we have heard a lot of innuendo about corporate concentration, but the only thing I have heard is the question of the Loan and Trust Company bill, in terms of cross-ownership and so on. I think you could report to the House on that. You certainly have enough, I think, to do that. But at the same time, you may want to get consultants to give you the parameters within which you work for corporate concentration.

Mr. Chairman: Well, that is something we all should bear in mind, then, when we are preparing our interim report.

Mr. Callahan: I think Trevor Eyton could have given you that, in fact. I ran into Trevor at the reception for Bourassa, and he told

me that he had been notified so quickly that he really did not have an opportunity to get anything prepared, so he gave you that off the top of his head.

Now, there is a guy that if you gave him enough time--now mind you, that is not an independent consultant, obviously--but you could certainly get someone, I am sure, who would be independent, who would tell you exactly what the problems are in terms of any areas you want to address.

Mr. Chairman: All right. I think we have had a good discussion on that topic and on the topic generally of what we are going to do.

I have a good idea now of what the consensus is of the committee as to how we should handle our time. There is just one small matter that we have not solved, getting back to corporate concentration specifically, and that is, is there something we want to do with regard to the insurance industry?

Mr. McFadden: Do in what sense?

Mr. Chairman: Well, we would seem to be--we have an industry-written submission, we have one from Sun Life. London Life will do one, but they are saying it is not going to say very much. Nobody particularly wants to come here. Is that satisfactory?

Mr. Ferraro.

Mr. Ferraro: Mr. Chairman, might I suggest--have we approached Co-operators' Insurance? It is certainly one of the largest co-operative insurance . . .

Mr. Chairman: They are accident . . .

Mr. Ferraro: No, they do everything. Are we talking about just life insurance?

Mr. Bond: No, we are talking about mutual and life.

Mr. Ferraro: Might I suggest you contact them, because I had a meeting with their board several months back and they were very receptive to getting involved. They are very large, extremely large. They are in Guelph. And they might not be as resistant as perhaps some of the unco-operatives.

Mr. Chairman: All right. Now, obviously, they would need some time.

I do not want to re-raise all that issue, bu--okay, we will approach them.

Mr. Haggerty.

Mr. Haggerty: Yes. What about looking to some offshore insurance such as Aetna Insurance, which has quite a bit of pension funds sitting on the American side that have been manufactured or . . .

Mr. Chairman: We have approached Economical Mutual and . . .

The Clerk: Manufacturers Life, Sun Life . . .

Mr. Ferraro: Paramutual?

The Clerk: No.

Mr. Ferraro: Why do you not just try and do the major ones?

Mr. Haggerty: I think some of the ones that you have named are either life only or general only. I think the idea is to try and get..

Mr. Chairman: All right. I think I am getting a consensus. We invite London Life to give us a written submission, and we continue to approach other major insurance companies hoping that we will find one that will bite.

Mr. Foulds: Mr. Chairman, I do not mean to raise this as an immediate possibility, but if they are terribly resistant we could look at the possibility of, after looking at written submissions--I do not know why people are nervous about appearing, I really do not. I do not want to threaten them in any way, but it seems to me that if there is an area in the financial sector that we need clarification from, we may have to look at the possibility of asking for a speaker's warrant.

Mr. Chairman: I think we would want to be pretty clear on what it is we need to have clarified.

Mr. Foulds: Yes, I would agree. But after we get the written submissions, we may very well want to look at that.

Mr. McFadden: Mr. Chairman, just on the area of warrants. We are asking people here to give us their ideas on legislation and on the approach to corporate concentration. Jim, I do not know, to bring a warrant, to force somebody to come down here and give us their opinions and information, I think is a bit severe.

I mean, if we were investigating a breach in the industry or something that was improperly done, I would agree with that. I have an idea that the witnesses who are reluctant--and we have seen a number of witnesses; I guess the ones who appeared were probably less reluctant than others--but I gather the problem is that this issue is so broad that a lot of them have not really addressed this whole area of corporate concentration as companies.

I mean, obviously Trilon and that whole group have because it is of immediate importance to them, but I do not think a lot of companies have particularly addressed themselves to this.

Secondly, and it goes, I think, back to the point that Jim made here--I am glad the press are not here--in the sense that I gather there is a perception out there, and it is not created by this committee, that if you get involved with coming before groups like ours it is like the "star chamber." You know, you walk in here and you get hammered. And you are only coming down voluntarily to give information, and I do not know--there is a public perception out there, at least among the type of people we want, that that is a possibility.

Now, hopefully, over the years this particular standing committee will develop the reputation of a committee that will give you an opportunity to come, express your views, and not be needlessly harrassed or intimidated. And it is not the Public Accounts committee, it is not another kind of committee. We are here to hear from people. Whether we agree with their ideas or think it is bizarre is fine.

I mean, we can have our own views, but I would hope that we could get a reputation of being the kind of committee that people will feel it is an honour to go to and we are always good listeners, and we will take them seriously and talk to the Treasurer or legislature or anyone else about what we are hearing.

So my worry, Jim, on your idea of the warrant is that I think that transmits at the start totally the wrong message, because if we got into that then it would look like we are some sort of an economic star chamber that is chasing people around Ontario. And I think we want to come out with a totally different image so that people will feel in time that it is a good idea to come here, whereas I think that a lot of people right now are not quite sure if it is or it is not, and what kind of treatment they will get.

So I think we have got a job, to some extent, to sell it as a good committee that people will want to come to.

Mr. Foulds: If I could just speak to that, Mr. Chairman. I believe in the saying "You can catch more flies with honey than you can with vinegar," and so I agree certainly with the tone of your remarks, David.

I guess all I am saying is that there may be a point at which there is a key piece of the puzzle that we need to--that we feel as a committee, at that point, that we need to get information. And let us take a look at it at that time to see what is the best way of getting it.

I think perhaps, frankly, one of the reasons that people are--the reasons that people may be reluctant to appear before us are twofold. One is the reason that you gave, the impression that legislative and parliamentary committees are out to pillory any poor soul who happens to walk in to volunteer his opinion, which I agree we do not want to give.

Secondly, it simply may be the notice problem. That is, through nobody's fault we started late, we started contacting people late. These are all very busy people, and with such a serious topic I think most people who would want to appear before us would want to give us a serious presentation, and not just something off the cuff. And I am quite sympathetic to those views.

So I think our best approach for the time being, at least, certainly is to continue to contact the insurance companies to see if there is one, as Rick suggested, like Co-operators, who might be willing to appear, and maybe go back to those that have expressed a reluctance but are quite willing to put something in writing to us, to see--maybe the Chairman himself can contact them to feel them out and find out what their areas of concern are and perhaps allay some of those concerns. And we could make a commitment that we would keep the questions on the brief that was presented.

I mean, if they want that kind of commitment from us ahead of time it may be something as simple as that, you know, that for the reasons David has outlined it would reassure them if we would say, you know, this is the topic, that is fine, that is what we will question you on in terms of our enlightenment and our seeking of information. I have no problem with that at all, Mr. Chairman.

Mr. Chairman: Mr. Ferraro.

Mr. Ferraro: Briefly, Mr. Chairman, I totally agree with what David has said as far as we have not established a reputation yet, and exactly what Jim said, it may be a notice problem. I totally endorse the aspect, without offending anyone, that perhaps either we give a different approach to the executives we are talking to or that you yourself become involved and indicate the approach the committee wants to take, and that it is not adversarial.

I think it is not only a notice problem, but I think it is also a definite apprehension based on some unknown.

Mr. Chairman: Yes. All right, message received. And I think we know where we are going now with the insurance industry.

Any other business?

Mr. Ashe: Why don't adjourn?

Mr. Chairman: Meeting adjourned until tomorrow morning.

The committee adjourned at 12:25 p.m.

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Classification

F-20

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
CORPORATE CONCENTRATION
WEDNESDAY, OCTOBER 8, 1986
Morning Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Substitution:

Baetz, R. (Ottawa West PC) for Miss Stephenson

Callahan, R. (Brampton L) for Mr. Ward

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Wednesday, October 8, 1986

The committee commenced at 10:20 a.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: Mr. Carrozza informs me that when Mr. Ortlieb was not able to come the last time, he proposed this morning to Helen Campbell, of the Canadian Labour Congress office here in Toronto, and she gave him assurances that this was a good day for Mr. Ortlieb to come. And it was our understanding that he would be coming today. We placed a telephone call to that office again yesterday, and those assurances were not changed.

This morning Mr. Carrozza called that office, and she has informed him that Mr. Ortlieb--while that message was passed on to him in Ottawa and she presumed that he was accepting the invitation to come today, apparently it was not acted on at all, and he is in Ottawa and apparently he is not coming.

Mr. Ferraro: Obviously he is a hostile witness and we should have a speaker's warrant issued immediately, Mr. Chairman.

Mr. Ashe: I will go along with that, Mr. Chairman.

Mr. Ferraro: I am being facetious, Mr. Chairman.

Mr. Chairman: I am in the committee's hands as to whether or not you want to try and schedule this again.

Mr. Ashe: No way.

Mr. Ferraro: Let us adjourn until this afternoon, Mr. Chairman.

Mr. Chairman: Mr. Mackenzie.

Mr. Mackenzie: I was talking to him last Wednesday in Peterborough and it was my understanding that he was coming. So I do not know what is happening.

Mr. Callahan: Why do we not give it another half hour?

The Clerk: No, he is not coming.

Mr. Chairman: He is apparently in Ottawa, so he is not likely to arrive. I think the problem is, in large part, our time restraints. On the other hand, it is a point of view that we would like to have.

Mr. Ferraro: Is there somebody who can give an Ontario perspective?

The Clerk: We contacted the Ontario Branch, but they felt that the Canadian people could give us an overall, because they were also--I also contacted Bob White, of the Ontario Federation, and they referred it to them because they felt they would give a much broader and more substantial brief.

Mr. Chairman: Well, Mr. Ferraro has moved that we adjourn, but I want to hear full debate on the issue as to what we should do about the CLC before accepting that motion.

Mr. Ashe: I could tell you, but I am not sure that the record could stand the remarks.

Mr. Barlow: I think that we have made every effort to contact them, Mr. Chairman, and perhaps if they wish to appear we can schedule another date during our regular sittings.

Mr. Mackenzie: I would think the initiative will now have to be theirs.

Mr. Barlow: Yes. That is what I am suggesting.

Mr. Chairman: All right, then. That being the case, perhaps the Clerk could contact the office and indicate that we will leave it in their hands as to whether or not they want to approach us to make a presentation.

Then I will entertain the motion to adjourn--the mover has left!--until 2:00 o'clock.

The committee adjourned at 10:25 a.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CORPORATE CONCENTRATION

WEDNESDAY, OCTOBER 8, 1986

Afternoon Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

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Substitution:

Baetz, R. (Ottawa West PC)

Callahan, R. (Brampton L) for Mr. Ward

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witnesses:

From Crownx:

Burns, M., Chairman & Chief Executive Officer,

Crown Life Insurance Company and Crowntek

Luba, R., President, Crown Financial Services and

Executive Vice-President, Corporate Finance & Investments,
Crown Life

Granger, R., Aird & Berlis, Vice-President, Director

& General Counsel, Crownx

Madden, D., Consultant to Crownx

Chesney, B., Corporate Information Officer

From the University of Toronto:

Dupré, S., Professor of Political Science & Chairman,

Ontario Task Force on Financial Institutions

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Wednesday, October 8, 1986

The committee resumed at 2:10 p.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Acting Chairman (Mr. Ferraro): Ladies and gentlemen, firstly, let me say on behalf of David Cooke, the Chairman, and the committee, thank you all very much for coming and addressing our committee today. I should tell you initially that, if you do not already know, everything said today will be on Hansard for posterity, and we can, if you so request, send you a copy and you can hang it on the wall and do with it what you will.

Let me introduce to the committee firstly the President of Crownx Incorporated, Mr. Michael Burns. Thank you, Mr. Burns, for coming today and taking time from your busy schedule. And also, Mr. Robert Luba, who is President of Crown Financial Services.

I will ask, in a moment, Mr. Burns to introduce other members of his delegation, if he will. And as well, I should point out to the committee that there is a short presentation that Mr. Burns will be presenting to the committee in front of you, and subsequent to that, I understand he is open for any and all questions.

Mr. Burns, Mr. Luba, thank you very much. Maybe if you could introduce the other gentlemen, Mr. Burns.

CROWNX INCORPORATED

Mr. Burns: Thank you, Mr. Chairman. It is a great honour for us to be here before your committee and express our views. We have had the same privilege in Ottawa, so it is nice to get the same privilege here in our home province.

I am Michael Burns, and I am President of Crownx. I am also the Chairman and Chief Executive Officer of the Crown Life Insurance Company and Crowntek, our information technology subsidiary. With me, as the Chairman mentioned, is Bob Luba, on my left. Bob is the President of Crown Financial Services. He is Executive Vice-President of Corporate Finance and Investments for Crown Life. And Bob Granger is on my right. Bob is a partner of the law firm of Aird and Berlis. He is a Vice-President and General Counsel for Crownx and a director of that company.

Also with me, behind somewhere, is Dennis Madden, who is a consultant to the Crownx group of companies; and Boyd Chesney, our Corporate Information Officer.

I will comment briefly on some of the points in our brief, and the brief is there in writing for you in more detail, and then we will certainly be open for any and all questions that you may wish to ask us, and hopefully we will be able to respond appropriately.

Crownx would like to talk to the need for harmonization between the provincial and the federal jurisdictions on ownership and related-party transaction, as well as the relationship between financial and non-financial companies. Crownx is an integrated service company with the majority of its operations in three areas: financial services, through the Crown Financial group of companies; health care, through Extendicare; and information technology, through Crowntek.

We are a large corporation. We employ in excess of 26,000 people. Our assets exceed \$8 billion. Our revenues in 1985 were just over \$3 billion, and we are just under \$2 billion in revenues in the first six months of this year.

The financial service side comprises the bulk of our revenue, approximately 77 per cent; health care is 16 per cent, information technology is 5, and other areas about 2 per cent.

We operate throughout Canada, the United States, as well as on an international basis in the United Kingdom, Caribbean Islands and the Pacific Rim. Sixty-two per cent of our revenue is derived from the United States, thirty per cent in Canada and eight per cent overseas.

The extent of our dependence on the international market is highlighted by the importance of the United States marketplace to Crown Life. At the end of 1984, out of more than 2,000 life companies in North America the Crown Life ranked 28th in assets, 21st in premiums, 16th in life insurance in force, 6th in new individual life insurance business written, and was 5th largest re-insurer in North America.

As a federally incorporated corporation with interests in a life insurer, a trust company, a merchant bank, an investment counselling firm and a real estate company, but operating in 10 provincial jurisdictions and around the world, we believe that it is essential that we have an operating base in Ontario which permits and encourages growth on an international basis. The global market is crucial to our future, since the trend in financial services is to worldwide competition.

Not only must Ontario and all of Canada compete internationally, but Canadians must be cognizant that there is increasing pressure from such countries as the United States and the United Kingdom for reciprocity. Before opening their markets to Canadian institutions, they are demanding that government in Canada must permit their financial institutions to compete on similar footing in this country.

Thus, there is a necessity for uniformity, a need to develop a national harmony with respect to jurisdictional responsibilities, financial policies and supervision of financial markets.

Crownx fully supports having appropriate safeguards to ensure effective control of potential abuses of non-arm's-length transactions. Such transactions, in the majority of instances, within companies and between affiliate companies generally are positive factors from the standpoint of the public interest.

Any policy approaches to such transactions must be realistic if Canada's financial community is to be innovative, competitive and efficient. It would be inconsistent for government to permit the grouping of financial institutions and then, through a total ban of related-party transactions, to prevent affiliates from developing synergies comprising a broad range of productive and harmless inter-related transactions. For example, given the Ontario government's proposal to expand both the powers and ownership of financial institutions, including networking, it is essential that unrealistic controls on non-arm's-length transactions do not negate the benefits.

Crownx is opposed to an outright ban on related-party transactions and to legislative restrictions on ownership. These views are outlined in our presentation.

While the Canadian system has high levels of asset concentration by industry and by market, there is intense competition, and consumers benefit from a financial system that is both efficient and innovative.

On the issue of ownership concentration, many different views have been expressed regarding widely-held and closely-held financial institutions. We strongly endorse the policy stance taken by the Ontario government in removing some of the ownership restrictions imposed in 1971 on the securities industry. The current patchwork of unco-ordinated provincial and federal ownership rules has produced some serious anomalies. For example, a foreign-owned financial institution can acquire 100 per cent of a Canadian bank, such as in the recent case of the Continental, but Canadian interests are precluded from a similar acquisition.

From the perspective of Crownx as a publicly traded stock company, we would support the lifting of ownership restrictions from all financial institutions, domestic or foreign-owned.

Whatever concerns there are with respect to potential conflicts arising from closely held institutions, they can be dealt with effectively through a mix of policy instruments, including increased disclosure, greater involvement by boards of directors, as well as improved supervision and legal remedies.

At Crownx, policies have been established to deal with proposed related-party transactions. Such transactions are reviewed

by an independent committee of the board of directors which has access to independent outside experts. Directors who have a conflict of interest with respect to the transaction refrain from voting.

On the subject of non-financial companies owning a financial institution, we do not believe that such a situation constitutes a concern if there are appropriate self-governance and supervisory administration. The new Competition Act, approved in June, 1986 after two decades of debate, applies to all institutions, federal and provincial, financial and non-financial. Its purpose is the promotion of economic efficiency and the strengthening of the role of market forces. It provides a legal framework which is designed to enable Canadian business to meet economic challenges of the world economy.

If concern does arise in the future with respect to the efficiency of the Canadian financial system as to the degree of competition, Crownx suggests that the new Competition Act is one of the most appropriate vehicles for dealing with it.

Thank you, and my colleagues are here with me to answer any questions which you may have.

Mr. Acting Chairman (Mr. Ferraro): Thank you, Mr. Burns. Thank you very much for your presentation. It was very clear, and the points you made were very straightforward and understandable.

Does the committee have any questions for the delegation?

Mr. McFadden.

Mr. McFadden: Thank you, Mr. Chairman.

With regard to self-dealing and related-party transactions, we on this committee have received a lot of views on that . . .

Mr. Burns: I am sure.

Mr. McFadden: . . . in recent weeks. We have had views everywhere from the fact there should be none--outright prohibition, period--to the proposal that as a general rule they be prevented but they can be given approval upon application to the appropriate regulatory authority, through to, I think, essentially your proposal, which is pretty much open.

Now, are there conditions--and I have not had a chance to read in detail the full content of your more in-depth brief, but are there conditions in which you would say there should be no related-party transactions? Are there conditions under which they should be barred, that we should consider, or are you suggesting here that it should be strictly a matter of judgment for the board of directors to decide whether or not in fact the particular loan involved or a transaction is in the best interests of the financial institution involved?

Mr. Burns: I am going to let Bob Luba answer that, but let me start by saying that if you have total, outright ban--for instance, we have an information technology company and it may well be appropriate to do the data-processing work for all our group of companies there. A total, outright ban of dealing would prevent us, so that is not the optimum approach.

Currently, under some of the acts we reside under, i.e., the Insurance Act in Ottawa, I am prevented from even having a mortgage on my house at the Crown Life. On the other hand, nobody else in this room is--I guess, Bob, you are eliminated too, are you not? Well, there are five people prevented from--I mean, it may well be a very intelligent mortgage for the company to have, but we cannot.

The Crown Life can borrow money from Crownx, but Crownx cannot borrow money from Crown Life. Maybe there is some instance where it should be--Bob, you can add to that.

Mr. Luba: I think that is the thrust of it, that the institutions that were involved with a life company or trust company, investment dealers, mutual fund operations and so on all are governed by appropriate legislation that has outright prohibitions on certain classes of transactions, from loans to officers and shareholders, to use an example, that is currently covered and banned.

What we are concerned about is an absolute ban that would preclude areas, as Mr. Burns has mentioned, that would hopefully lead to overall efficiency. And one area was in the data processing area, where we have a sister subsidiary with about 15 to 20 per cent of its business being with Crown Life and the other 85 per cent being done with other customers, some of whom are also financial institutions. We think we are more efficient because of our ability to do that. An outright ban would eliminate that kind of thing.

So we accept the need for certain safeguards which we think are already in place in the legislation, but augmented and--but not being replaced by an outright ban. The area where we feel there could be some improvement or some strengthening is in the area of corporate governance in terms of self-dealing, the kinds of protections and so on that might be put in place relative to self-dealing or related-party transactions. And as we mentioned, we do have a process in place whereby related-party transactions do get scrutiny by an independent committee of the board, who have access to independent experts if necessary, and so on. We have done that voluntarily, and we advocate that over time being written into various regulatory requirements.

But an outright ban is what we are concerned about, because we think that that would be a very retrogressive step in terms of our position and relative to the industries we can compete in, relative to the international milieu.

Mr. McFadden: So I take it what you are suggesting then is

you would support the continuation, for example, on the ban on, say, mortgage or loans to directors. You would not find that part offensive. What you are saying is it is just a total ban on all related-party . . .

Mr. Luba: That is right.

Mr. McFadden: I take it what you are saying is you would be in favour of any bans that would lead to conflicts of interest, for example, of the directors, themselves personally.

Mr. Luba: You would have to look at it transaction by transaction, and our preference would be that if it was not covered, that it would be covered by an overall corporate governance mechanism, with the first line being the officers and directors of their respective corporations.

We did suggest to Ottawa in our brief there, of which we have left a copy with the researcher, a mechanism where a pre-notification of certain kinds of transactions might also be an appropriate thing. There is nothing like the public scrutiny in an overall sense to make sure that people conduct themselves in a proper way, and we advocate that kind of an approach also in areas that are--try to provide a framework for governance, as opposed to specific transaction-by-transaction rules.

Mr. McFadden: With regard to the role of directors, which you commented on, I believe, in wrestling with the appropriate role of directors in this kind of situation, I note in your brief that you are talking about certain of the directors maintaining a very careful review function within the company with a certain amount of independence. I would like to ask you a two-part question.

First of all, what is your view in terms of the appropriate level of outside directors that a financial institution should have? What I am referring to, is it 30 per cent outside, 50 per cent, 75, or no per cent?

Secondly, in terms of the responsibility of the directors, under corporate law directors are responsible to the shareholders. Now, there is a growing body of opinion, certainly in the financial area, that directors should be responsible to depositors. And I know there are proposals around, for example that a certain number of directors should in fact be elected or appointed to represent depositor interests. And I know some life companies have policy-holder directors.

I wonder if you could give me your views on those two questions, if you could: the appropriate level of independent directors, and secondly, where you see responsibility lying for directors.

Mr. Burns: Well, certainly--I am going to let Bob Granger talk to that a bit--but there has to be, particularly if you are going to

put the onus on the board of directors on related-party transactions, you have to have a troop of bona fide independent directors, or turning that type of a decision over to the board of directors is a sham. And you have to have a large enough number that at least it can form a quorum of the board. Because otherwise, again, it becomes a sham and you have two or three independent directors making a decision for 20 directors.

And, you know, we just did--are waiting for approval from Ottawa on a related-party transaction where we sold a subsidiary of the Crown Life to Crownx. Now, the driving force behind that was that it was strictly a regulatory decision because it was a U.K. subsidiary regulated by the Department of Trade in England, and so they would want to issue a particular policy, move into a specific line of business, and they get approval in London and then it had to come to Ottawa for their approval.

Now, I am not going to be critical of Ottawa's ability to ascertain what goes on in financial markets in England but, I mean, it was a layering. So we had an independent committee of the board, and we clearly--the people on it had clearly no connection in any way, shape or form with any of the potentially related parties. They were not directors of related companies, they were just completely--in that instance, seven members constitute a quorum of our board, we had, I think, a five-member committee, but had eight or nine independent directors able to vote on the transaction.

I mean, people like--of course I would be eliminated, but Bob was eliminated because he was a director of the company we ended up with. He also was a director of the company that was being moved around. So I mean, we went to very extreme ends to make sure those people making the recommendation had all the tools that they needed. They had independent legal advice, independent evaluation advice, they had independent dealers that were not associated with anything that the company had ever done.

But I think we do have a requirement that a third of our directors must represent the policy-holders. But I think that one must remember that when one walks in the door, directors are equal. You do not vote on--unlike the House of Commons, where you can vote on your party's particular bills, no, it is strictly that once you are in the house you are all equal and all equally responsible.

And I honestly do not think that people would act--if they are good directors, I think they would act in the best interests of all, not for one particular area. Bob, you maybe could speak to that.

Mr. Granger: Well, if I could add maybe a thought to what Michael has just been saying, and that is major financial corporations obviously aggrandize their position and increase their place with consumers and so on through the quality of the board that serves the company. And I think it is generally our experience that there is considerable competition for quality directors amongst the institutions themselves. They work hard to seek good, qualified,

independent people to serve on their boards, and that is a process that is forced by the marketplace; it is a kind of a natural process that they want to improve the quality of their board of directors. The legitimate corporations certainly do, and that is natural, and so long as we have a competitive environment out there I think that will continue.

Turning to the suggestion that is finding increased interest all over the place--that is, having directors serving creditors--that is not a concept that I would say is exactly overwhelming our community in any way. It may be quietly creeping in, but in terms of acceptance, I think it will create a considerable dilemma for boards of directors. Their position has always been the bottom line, which has always been the interests of shareholders.

Above that, and certainly in priority to the shareholders, is the interests of creditors, whether they are depositors who put their money on deposit and have a loan arrangement with the institution or whether they are somebody who is building a new branch office for them and who lends credit in the same sense, and stands in a credit position to the corporation. Should the unsecured trade creditors have directors serving their interests? I mean, it is a very broad question. How far does it go? Is it just a specialized person? If I put \$1,000 in the bank, should my interest be different than the tradesman who advances \$1,000 worth of credit to them?

Their interests are that of a lender and they are protected by a completely different set of laws and history and tradition in our legal system in this part of the world. For them to be on the same footing and to attempt to be represented in the same room by the same interests is very difficult for me to contemplate. I would think we would be creating warfare inside the boardroom trying to put such irreconcilable interests together on a board of directors.

Mr. McFadden: It is interesting you say that.

Mr. Acting Chairman (Mr. Ferraro): Could I ask you to wind up, Mr. McFadden, and we will get back to you, because there are some time constraints.

Mr. McFadden: Yes, just one thing. It is interesting you say that. We got the impression from some of the other people we were talking to that the interest between the depositors and the shareholders is probably quite common, and that given the fact that they might all work together in effect on virtually every decision, it might not hurt. Well, that is a legal question. But could I ask one very brief thing?

Of your board, how many would qualify as outside directors? What per cent, in round figures?

Mr. Burns: In Crown Life, it is 10 out of 18.

Mr. McFadden: Ten out of 18. That is more than 50 per cent.

Mr. Burns: Yes. And I would think in Crownx--it is about 50 per cent in Crownx.

Mr. Luba: You are into what is a--what do you mean by independent director? A discussion at that level is a whole different discussion. But at Crown Life, the major regulated financial institution, 10 of the 18 board members have no officer or any other relationship with the corporation.

Mr. McFadden: Thank you.

Mr. Acting Chairman (Mr. Ferraro): Thank you, Mr. McFadden.

Mr. Mackenzie.

Mr. Mackenzie: I am just curious as to whether or not you have a figure that you would toss out in terms of ownership percentage in a financial institution. We have got the figure all the way from 10, to 30 in the Blenkarn report, to 50, I think, when we had Royal Trust Co. before us. I gather, sir, you would rather see it open.

Mr. Burns: I really think it should be open, I really do. I think that the more open it has been--I mean, if you look at the failures that there have been or the problem areas that there have been, it has neither helped to have broadly held shares or a limited number.

You know, I do not know if you people remember an article that appeared just after the Green Paper came out of Ottawa a couple of years ago, and I was quoted out of context, where I said I always wanted to own a bank.

Mr. Acting Chairman (Mr. Ferraro): We can identify with being quoted out of context!

Mr. Burns: But what I had said is that when somebody says you cannot have something, you want it. And when I am told I cannot have a bank, I always want to have a bank in the stable.

Now, that I know I cannot--you know, the Green Paper will probably never come into being, like many things that happen in Ottawa. I mean, we have only been waiting for 60 years for a change in the act under which we operate, so to expect the Green Paper to get enacted in a three- or four-year period, I find very hard to believe.

But you know, should a Canadian, either individual or corporation, be prevented from owning the Continental Bank? What have we got, 13 chartered banks left now, 14 chartered banks left? I mean, there were 14 eligible people to buy the Continental Bank, of Canadian ownership, Canadian citizenship, but there is a myriad of world banks that could have come in and done what Lloyd's did. Is that in the best interest? Probably it was in the best interest of the Continental Bank and its depositors and its shareholders.

But why should we be excluded if we wanted to be that person? And that is why I do not really profess in any ownership. You know, I spent 20 years in the investment business and we spent most of that time trying to bring in competition. I mean, if you cannot compete against the world, you should not be in business. Why put up protective barriers, be it ownership or nationality?

I was saying to the Chairman earlier today, we used to be one of the principal owners of the Argonaut Football Club, and it is just ludicrous for me to think that the Canadian Football League will survive as long as they have the hiring restrictions that they do. People want to see the best. Now, if the best include 10 Canadians or 24 Canadians or no Canadians, let the public have what is in their best interest. In the case of football, it is a superior product.

You do not see a restriction on the American teams in hockey as to how many Canadians or Europeans they can have. Now, why put a restriction on a businessman as to who should own him, where he should own or how he should be owned?

Mr. Mackenzie: Of course, you can see some of the arguments you open up immediately with that.

Mr. Foulds: Not a good analogy!

Mr. Callahan: That really gives me concern about your investment portfolio!

Mr. Granger: I do not know, but in terms of crowd popularity, the Jays do not have too many Canadians, but they sure bring in the crowds. And we are all enthusiastic, I know the government of Ontario are helping to build a stadium and so on for it.

Mr. Mackenzie: We would never have got to that league level or that sport level, though, where we have; in terms of football you would probably end up with no Canadian content at all.

Mr. Granger: But is it important? Is it important?

Mr. Mackenzie: Well, I think that is just exactly how you place your values and whether or not you want to be able to develop in certain areas.

Mr. Granger: But, I mean, our fellow citizens are all making their decisions. They do it by turning on the boob tube and looking at the game of their choice, and I think it is overwhelmingly the National Football League that they are turning to.

Mr. Burns: I just think that you get an inefficient system when you get dictated ownership.

Mr. Mackenzie: Well, if you have 51 per cent ownership you have dictated ownership too. If there is no independence in any board

of directors . . .

Mr. Burns: I think that is wrong, I really do. I disagree, because I can honestly say I vote 51 per cent of the stock in Crownx, and Crownx then votes 94 per cent of the stock in the Crown Life, and yet you have got an independent board of directors the majority of whom at the Crown Life level are totally independent. And they made the decision on whether the subsidiary should or should not be sold, whether it was in the best interests of the Crown Life. The only thing we could do at the next level up was, we could turn it down on price.

I mean, I would also tell you that, again, voting 94 per cent of the stock of the company, we wanted to change the auditors and it turned into a great bloodbath. I mean, I got voted down. I said, "Well, I'm going to vote 94 per cent of the stock at the annual meeting in favour of new auditors," and 80 per cent of the board of directors would not support me. It is a great position to be in. And funnily enough, we had to wait a year before we changed auditors.

Mr. Acting Chairman (Mr. Ferraro): Mr. Callahan.

Mr. Callahan: Yes. I would like to just go into a few areas.

You operate in other jurisdictions. What are the rules of the game there? Are they all the same? Are they different, or--maybe you could just take one of them.

Mr. Burns: Well, I have answered Great Britain because we operate under dual regulation there.

Mr. Callahan: Well, leave out the Caribbean because I am sure that rules are probably very much business-oriented there. How about in the Pacific Rim?

Mr. Burns: We basically operate in the Pacific Rim in the insurance business only, out of Hong Kong.

Mr. Callahan: But what are the rules there if you wanted to sell the shares of that company to another company that was involved in, say, some other field?

Mr. Burns: It operates basically as just a sales office. There are certain rules and regulations as to the types of insurance you can sell and the currencies under which you can sell, that are set by the countries.

I mean, it is rather like if a British company wanted to come into Canada, the Department of Insurance states the currency and sets the reserves that must be set up.

Mr. Callahan: I know there are problems in insurance companies doing business in other countries because they have all their own little quirks. But what I am getting at is, what are the Pacific Rim countries' legislative enactments that deal with the

question of cross-ownership, being in various fields of endeavour and having cross-ownership? Do they have any rules?

Mr. Luba: I can have a crack at that.

The insurance business to a certain degree is unique. Many of the larger companies operate within one corporate entity on a worldwide basis, so most of the--and Crown Life does likewise--the policies and so on that we sell in Hong Kong are U.S.-dollar policies, but they are liabilities of the Crown Life Insurance Company. And the way most jurisdictions around the world control that is they license you to sell in that jurisdiction and they look at the solvency of the issuing company. And we file, in all the jurisdictions that we do business with, regulatory forms which lay out our solvency.

In most jurisdictions, there is very little restriction on ownership as a point of fact. There are some jurisdictions--Japan, notably, and Korea--which are a high area of interest, which have been closed. They would not license foreign insurance companies, irrespective of where they were owned, as long as they were not Japanese or Korean firms.

They are in the process of liberalizing that now, and Japan has licensed two or three of the major companies to sell policies in Japan, and likewise in Korea. That is just occurring at this point in time. Some of the other lesser countries in the Asian block are more restrictive, some are more liberal, but it varies quite considerably.

But perhaps the most important consideration in terms of ownership for this group to consider is vis-à-vis the United States and vis-à-vis the U.K. And in fact, at this point in time, a Canadian investor or a Canadian could own 100 per cent of an American life insurance company, it can own 100 per cent of a U.S. bank, it can own 100 per cent of a stockbrokerage firm, it can own 100 per cent of a savings and loan company.

On the other hand, an American could not come here and buy 100 per cent of a life company; it could not buy a bank up, until last week; it cannot buy a stockbrokerage company unless it got grandfathered by some quirk of faith in the past; and it cannot buy a trust company. So generally speaking, there is serious concern in terms of reciprocity between Canada and the United States.

Likewise, in the U.K. They are in the process of going through a reregulation, a fairly extensive reregulation situation there, and they are writing into all of those acts where they license foreign operators, the discretion for the Minister to not license firms to do business in the U.K. for companies that have, in their home jurisdictions, restrictions on Brits doing business in those jurisdictions. So a straight reciprocity provision is being written into those acts, with ministerial discretion.

Mr. Callahan: Well, maybe I did not make myself clear. I am more concerned about those jurisdictions and their approach to, say,

an insurance company owning shares or controlling--a trust company controlling, through a pyramid, a development company, et cetera.

Mr. Luba: In the life insurance business, most jurisdictions, when they go for licensing, they look at the nature of the regulatory regime in the home act, and as long as there is compliance with that home set of standards they go along with it. You have to file and so on. They review it, but they generally will go along with the Canadian standards, not their local standards.

Mr. Callahan: No, I am still not getting the question answered. I am asking you what is the experience in other jurisdictions--and forget the United States, because they probably do have a rather easygoing approach, but let us look--you are talking about the Pacific Rim, you are talking about the U.K. What are their rules in terms of allowing an insurance company to own part of a trust company, or a trust company, vice versa, and then maybe a spinoff to a development company?

Mr. Burns: Maybe I can answer that in specific terms. We under British law can own a lending institution in the insurance company. Okay? Under Canadian law, we cannot, so therefore we have a lending institution underneath our U.K. life company that we cannot activate.

Mr. Callahan: Well, how about the Pacific Rim countries, since you prefer to--you do business in those countries?

Mr. Burns: Perhaps I can answer that question because I am just back from 10 days there. We are in the process of investigating it, and perhaps three months from now we would be better able to answer that specific question.

We went into Hong Kong basically as a relatively easy market to get into, to sell, and there was a big demand for our product. There really was not a full market research study done and full knowledge of the regulatory environment for all aspects of the financial service business. It was done merely to find an outlet for product for which there was a demand.

So I am sorry I cannot be more specific than that, but that is really what I went to find out. I would say this, that it is much freer there than it is in most parts of the world. And we have a variable life subsidiary in the United States which is--that is an SEC-registered company that sells variable life insurance--and it is licensed in most states to do business. It is still not licensed in California.

When we asked the question about taking it into Hong Kong, the answer really was, well, it has to clear the equivalent of the Hong Kong SEC, but I do not know if they ever meet. So I think there are probably very, very few restrictions.

Mr. Granger: May I just try to add a comment to that? There

is a very substantial rush on at the time, a big bang in the U.K. marketplace, of people interested in acquiring United Kingdom financial institutions. One of the reasons they are interested in acquiring United Kingdom financial institutions is that the investment restrictions that apply to those institutions are very lenient as compared to, for instance, this part of the world.

I am sure similar comparisons are being made by American institutions looking at United Kingdom companies. But the overriding conclusion they have reached about the investment restrictions on those companies is that they are very lenient indeed, and it constitutes, in that sense, a superior environment in which to operate.

If you are going to try to construct an international financial conglomerate that has the ability to succeed where others fail, and to meet competition wherever it arises, you obviously want to have all the advantages going for you that you can have.

Mr. Callahan: Well, we have heard that as an argument, but I think my colleague has gone into the question of cross-ownership. But there is just one final item, if I might, Mr. Chairman.

You are probably all familiar with A.E. Williams, the U.S. firm that wants to come in and use part-time life insurance agents and talk people into buying term as opposed to whole life, and then through their investment abilities through another company, I would think, want to convince them that they should invest that saving in a financial portfolio. That, to me, strikes somewhat at the very heart of the whole issue here, is that how can those people--forget about the directors, but let us talk about the people who are conducting the policy of the company. How can they possibly serve the best interests of both of those people, both the people, in terms of giving them the best possible life insurance when they are also trying to free up that extra money so that they can have them invest in a financial package?

Mr. Burns: I think it is government's responsibility to know and understand what they are doing. And they are not serving the consumer fairly, properly or honestly. And that is the government's responsibility, not mine as a citizen.

Mr. Callahan: Well, we have reacted to that. All I am getting at is, the point is if you have ownership of various types of operations by a company . . .

Mr. Burns: But I think that is up to--it goes back to the comment that Bob made, and I think Bob Luba made. It is up to governments to license people and license companies. And if they are coming in and are not going to serve the consumer properly, then they should not be allowed to be licensed. And A.E. Williams probably should not be licensed to do business in this province, whether it is with part-time agents or full-time agents.

Mr. Callahan: Because of the conflict that exists between

the two?

Mr. Burns: I am not talking about conflict. I am talking about the product they are selling. They are doing a detriment to the consumer, a complete detriment to the consumer, and they do not explain it properly or sell it properly.

Mr. Callahan: Well, I see a similarity, but perhaps it is . . .

Mr. Burns: No, but I think we are going down two different roads. And I am talking about who deserves to be protected, the consumer or somebody's pocketbook. And in the case of the consumer, it is his pocketbook. And that is where--I mean, it is like the OSC, or the SEC in the United States, that their thrust has to be to look after the little guy. And the little guy is not being looked after in the Williams approach to either selling or providing insurance.

And I say that it has not hurt us. It probably would hurt us if they did come in, but I would say that the same way. I mean, they do not act in the best interest of the consumer, and I think that there are times that that has to become the overriding thing. And it is not whether you license part-time agents or full-time agents. I believe that perhaps a full-time, trained, licensed agent is far, far better than a part-time agent. A part-time agent goes out and has no idea what they are selling. They are just worried about putting a commission in their pocket and they could not care less about you or me or anybody else in this room. And that is their approach to selling business.

Mr. Chairman: Mr. Haggerty and then Mr. Foulds.

Mr. Haggerty: Thank you, Mr. Chairman.

Mr. Burns, I am looking through your financial statement from Crownx Incorporated, and it said--at page 26, it said "Deferred income taxes," and at the back of years 1985, '84, which is about twice the size, I guess--I am looking at 1.247--and on page 28 it says, "Deferred income taxes result from claiming depreciation and other items for tax purposes in the amounts which differ from those recorded in the accounts and from filing certain United States federal income tax returns on a cash basis while the financial statements recognize revenues and expenses on an accrual basis."

Does your corporation pay any corporation taxes at all from one country to another? You mentioned about Hong Kong. Do you pay corporation taxes there? Do you pay in the United States, and do you pay it here in Canada?

Mr. Luba: On a corporate income tax basis, we do not pay any straight income taxes on a cash basis at this point. As you can see, we have got considerable deferred income tax liabilities which we have been able to defer. But on a cash tax basis, we do not pay capital tax, premium taxes, those kinds of things at this point. Because of the very rapid growth of the company, we have been able to record

depreciation and other deductions as allowed under the various acts faster than how we record those same expenses for accounting purposes.

Mr. Haggerty: In your depreciation, though, you increase your assets too, do you not?

Mr. Luba: No, we write them down.

Mr. Haggerty: You write them down, do you? I thought I had seen them going up there.

Mr. Luba: Well, that is because we have been buying and building and growing very rapidly. And for our tax purposes, in many jurisdictions there are incentives to do that. And we have done that and taken advantage of those incentives, and have taken the tax write-offs because of that. For accounting purposes, and matching revenues and expenses, we depreciate them more slowly.

Mr. Haggerty: Do you pay income taxes in the United Kingdom, then?

Mr. Luba: We do not pay any--we have not paid any cash income taxes last year in any jurisdiction on a worldwide basis.

Mr. Granger: But I think the point should be made that the company operating in the United Kingdom has not earned any profits.

Mr. Luba: We have been very heavily in an investment mode there. We have grown the company at about 30-35 per cent a year. We are now up to about \$700 million in assets from a standing start eight years ago. We have not made a penny and have not paid any income tax.

Mr. Haggerty: But you can still build an empire without paying any corporation taxes whatsoever, then. That is what you are telling me.

Mr. Granger: Well, it is an \$800 million corporation and empire by those terms--it has grown at 30 per cent a year. It has done nothing but incur losses; it has not had any profits. If that is what you mean, you can grow an empire in that sense without paying any taxes, I think the answer is yes. Most people think of an empire as something that produces profits, however.

Mr. Haggerty: I notice there that your biggest asset is in the life insurance end of your business.

Mr. Luba: That is correct.

Mr. Haggerty: And you have got a pretty large investment there, I guess, from the small person buying life insurance. I guess it would be the blue-collar worker and anybody else who is buying life insurance. So you have got quite an asset in that area.

What is the return on that money that you are using then to build up your corporation, your company? What is the return on the money that you take from the pension funds and from the life insurance premiums? What is the return on that money?

Mr. Luba: Well, generally, you have to look at it by the nature of each contractual liability. And if we take pensions, for example, we write a variety of pension products, right through to having the investment results flow directly through to the client, where he just puts his money on deposit, we do our best and--however, we do charge a fee; we have got segregated funds in that area--right to the other end of the spectrum, where they will come to us and say we have these employees and this is what they are getting, and this is the kind of pension they will want when they retire, what is our annual premium for that. And we set our actuaries to work and they figure all the probabilities with inflation, investment returns and turnover in the workforce and so on, and we quote a premium.

So there is quite a spectrum of products that we do offer, and some of the investment results flow directly through to the client, in others we take the risk on investment.

Mr. Haggerty: I was looking at your financial report and in the year 1981 and 1984, I guess, you had the largest return on revenue from that particular section of your business, where you generated a really enormous amount of income, and the point I wanted to know is what is--if I invest into the bank or put my savings into a savings account in the bank and that, I know I am getting five and a half or six per cent. What is the return--if I go back to some of my old life insurance policies, I would get about one and a half or two per cent return on my investment, and I would like to know, what are you paying? I mean, do you pay a fixed . . .

Mr. Luba: It depends on the product.

Mr. Ashe: If you die, though, there is good rate for somebody!

Mr. Luba: If you want a guaranteed return, you can get that in an annuity or a policy with the guaranteed return rate, and that at this point is in the eight-per-cent range. If you were buying a whole-life policy it is indeterminate because we do not know what the inflation, et cetera, will be.

At the other end of the spectrum, we do sell a policy called "Plan For Life," which basically addresses the question that was raised a little earlier about the notion of "buy term insurance and invest the rest." What we do is we have got a combined policy which is called "Plan For Life," you put your money on deposit and we buy your protection, and you have a choice of buying a stock fund or a bond fund or a mortgage fund or some combination of that.

So we manage that money for you for a fee, and you get your

protection at the same time. There are some other features of that product which we think are quite attractive to the consumer.

So it really depends very much on the product. But you can be assured that we have to compete with the banks and trust companies and everyone else looking to attract consumer savings.

Mr. Burns: On your question on Hong Kong, the only tax that we would pay, if they had a tax, would be premium tax, the way we are set up to do business there. But they do not have a premium tax in that part of the world.

Mr. Chairman: I am just noting the lack of payment of taxes, and I am wondering if I could retain your accountants!

Mr. Foulds.

Mr. Foulds: Thank you very much, Mr. Chairman.

When was the last year that you did pay corporate income tax?

Mr. Luba: Cash income tax?

Mr. Foulds: Yes.

Mr. Luba: A long time ago. It was before my time. I think it was 1972, in the life company.

Mr. Foulds: So you have been in a growth period for 13 years, 14 years?

Mr. Burns: I think you might say we have been in a growth period since the late forties, on the life side.

Mr. Foulds: So you have been able to defer taxes for 13 years. Is that just in Canada or in all jurisdictions?

Mr. Luba: On a worldwide basis.

Mr. Foulds: On a worldwide basis.

Mr. Luba: We operate, as I mentioned earlier, Crown Life on a worldwide basis.

Mr. Granger: And 70 per cent of our business is outside of Canada.

Mr. Foulds: In 1972, did you pay those taxes in Canada or in another jurisdiction?

Mr. Luba: No, they were American, actually. The reason I remember that is we got a refund on part of those yesterday.

Mr. Foulds: When was the last time you paid taxes in Canada?

Mr. Luba: I cannot answer that just off the--it is not within recent history. Many years ago.

Mr. Burns: That is for the life company. We are talking income taxes. We are not talking premium taxes, property taxes, capital taxes and a variety of other taxes.

Mr. Foulds: Yes. Corporation income taxes.

Mr. Luba: Corporate income taxes, it has been a long time.

Mr. Foulds: You indicated that there were more lenient restrictions in the U.K. in acquiring holdings in financial companies. Can you give us some idea of the contrast in terms of the leniency?

Mr. Luba: Well, your banks are allowed to own and sell insurance--own insurance companies and sell insurance.

Mr. Foulds: Total ownership?

Mr. Burns: Yes. Citicorp basically owns insurance interests and sells there. You can own a deposit-taking institution, you can own--there are regulations around some, but I mean, you look at some of the large merchant banks are in the deposit-taking business and governed by the Bank of England, they are in the underwriting business, they are in the money management business, they are in, you know . . .

Mr. Foulds: So they can provide a variety of financial services very easily.

Mr. Burns: A very, very broad range.

Mr. Luba: That is part of what the big bang is all about, is the complete deregulation taking place. It is going to be totally integrated.

Mr. Foulds: You mean worldwide.

Mr. Granger: From their point of view it is going to be a fully integrated business, they can be in any and all aspects of this, and there are going to be big financial conglomerates squaring off against each other. And the small ones, unless they are in very specialized niches, are going to be in jeopardy.

Mr. Foulds: Would you include the big five Canadian banks in that category of being in jeopardy?

Mr. Granger: In the United Kingdom?

Mr. Foulds: No, internationally.

Mr. Granger: Well, I would not think so. They rank amongst the top 100 banks in the world.

Mr. Foulds: Yes. But in the U.K., they could be squeezed out, do you think, in the current situation?

Mr. Granger: No, I am not suggesting that. I am merely addressing myself to aspects of the big bang that are happening. It is not so much a banking issue as it is an integrated securities . . .

Mr. Luba: The Canadian banks are participating in that reregulation in the U.K. and are playing an active part and do not seem to be precluded from doing so by Canadian regulations. So I think they will be players.

Mr. Foulds: A federalist question. When you had that bloodbath that you mentioned in which you squared off against the other directors but you went to the annual meeting and won, how many of those directors are still around?

Mr. Burns: The majority of them that have not retired through age. There are four that went off for age restrictions last year that were there then. I think there have only been about--there was one director who chose to resign because of it.

Mr. Foulds: Because of the issue?

Mr. Burns: Because of the issue. And there have been three that have resigned because of conflict of interest. As to where their business went--I mean, for instance, one went back and looked with Gordon Grey and Royal LePage, and he became involved with--when he became involved with Royal Trust and London Life, which meant he had a personal conflict of interest, he chose to go back with those companies rather than walk away from the company where his ownership was.

Mr. Granger: If I could just add something to that, that is, this question relates to--the question underlying this is who should be the auditors for the shareholders of the corporation. And that is a question that has always been within the purview of the shareholders to decide.

Mr. Foulds: Sure.

Mr. Granger: The shareholders--well, at least 94 per cent of the shareholders have their views about this matter. There is nothing inappropriate . . .

Mr. Foulds: No. I just asked the question to learn something about the dynamics . . .

Mr. Grange: There were some dynamics!

Mr. Foulds: . . . of the board of directors. I was actually much struck by the middle paragraph in your presentation on page 6, which indicates that Crownx policy has been established to deal with the related-party transactions: "Such transactions are reviewed by an independent committee of the board of directors, which has access to independent outside experts. Directors who have a conflict of interest with respect to the transaction were screened from voting."

Without giving away any confidentialities, can you give us sort of an example or case study where that has happened, where you have had an independent committee have to review a transaction?

Mr. Burns: I did try and talk to it, and perhaps it was before you joined us. We recently have moved our U.K.--before Ottawa and before the DOT in the U.K., to move our U.K. subsidiary out from underneath the Crown Life. It was a wholly-owned subsidiary of the Crown Life, or 71 per cent owned by, and we had an independent evaluation done by the firm of Tillinghast, in London, which was presented to the independent committee. And I will go into how they were selected.

They were formed, they elected their own chairman; they said that they used those people at the Crown Life that were familiar as a questioning board to understand the company; they sought outside legal help, a totally independent firm that had not really done work in any way, shape or form for the Crown for many years; and discussed it with auditors, investment bankers, and then came in with their recommendation.

Mr. Foulds: The recommendation for the . . .

Mr. Burns: The recommendation that evaluation as prepared by Tillinghast was fair and equitable. They also spent quite a bit of time, because the ownership of the assets of the Crown Life is both for the shareholders and the policy-holders, so therefore they spent an exhaustive time with both in-house actuaries and outside actuaries to make sure that the division of the proceeds went into the appropriate pool. And really, the independent--as chairman of the company I asked a group of independent directors to sit in on the committee, all of whom agreed to do--except one, who was unavailable to come that day--and it was a very senior, responsible committee that did review it, including an ex-senior officer of the Crown Life who was on the board, and the former president of a bank, a current senior officer of a bank and a former senior chief executive officer of a major corporation in Canada.

Mr. Foulds: So you had in this case a three-person committee?

Mr. Burns: No. I think it was a--was it four or five?

Mr. Luba: Four.

Mr. Burns: Four. There were five invited, but one was . . .

Mr. Foulds: Was occupied.

Mr. Burns: One was, yes, stuck in New York on the key first meeting day, so it was pretty hard to bring him in to check in later. Although all the independent directors received material and the full presentation by the chairman of that committee to the board.

Mr. Foulds: Can you give us some idea over what period of time that review would have taken place?

Mr. Luba: About six weeks.

Mr. Granger: Ultimately, that committee reported to the board. The board had an independent quorum because 10 out of the 18 directors are independent.

Mr. Foulds: Okay.

Mr. Granger: It was therefore able to act on the matter without having to refer it to shareholders. And so those directors that had an interest and a conflict in the matter had to declare their interest and refrain from participation in the matter, including voting, most obviously. It was left to the independent directors to determine the matter, and those who had an interest were precluded from participation, and that is in accordance with the law of the land. It is generally regarded, whether it is in a specific statute or not, as the appropriate way to proceed. It is perhaps the kind of standard that should have been applied in all the cases that caused so much public controversy.

Mr. Foulds: I have a feeling that if that kind of procedure were known more publicly, it would frankly be . . .

Mr. Luba: When we announced the transaction we did indicate it had been reviewed . . .

Mr. Foulds: And you indicated that to the shareholders?

Mr. Luba: We indicated it at a public forum. And it should be noted there is no regulatory requirement for that process, and we are advocating that that perhaps should be so.

Mr. Foulds: You would not have an objection to that kind of regulatory requirement.

Mr. Luba: No, we think it is proper.

Mr. Burns: And I think, to show you our forthrightness in these types of things, is that we formed an audit committee of the board before there was any--before it became even sort of a requirement. We felt it was the appropriate thing to do and always have tried to act in that manner. So we do recommend that type of approach, and I think that the directors themselves appreciate it.

And I think Bob Granger alluded to the fact of the competition for directors. In the United States, it is far, far more difficult than here because of the onerous liability that a director does take, and in the United States they are more apt to sue or attack the directors, which has not yet happened in Canada. I think part of the reason it happens in the States--it is my own opinion; it is not coming from anywhere else--I think when you have contingent legal fees, it opens the door for more actions of that nature.

Mr. Chairman: Whereas our lawyers are all full of integrity!

Mr. Foulds: Also you can ask for a set fee ahead of time.

Mr. Granger: I do not know if we highlighted enough that in our response to the Green Paper both at the House of Commons and the Senate of Canada, our response included a recommendation with respect to a financial institution tribunal, in which related-party transactions would be at least always referred to a regulator. I mean, there has been--if in fact the degree of concern that is shown in the newspapers and so on reflects the level of public concern, which you are in a better position to judge than I am--but if it accurately does so, our view was that perhaps we need, whether it is a federal financial institution tribunal or a proliferation of such tribunals. And people, if they have a legitimate related-party transaction that they are prepared to let see the light of day, as in our case--we are perfectly prepared to do it--you send it to this tribunal and you say, 30 days after he has received it, if he does not take some objection to it then you proceed with it. If he does take it, then you have to follow a procedure.

I would think that somebody--if you could hire some skilled people with some knowledge about business transactions, they could review a transaction and say, this is the way we want things done in this country; it looks fine to us, let's not stick our noses into that any further.

Mr. Foulds: And if this one stinks, we can . . .

Mr. Granger: Yes. In any event, nobody escapes liability through our proposal. We have suggested that if there is any liability, if anybody is pulling the wool over anybody, it is going to stick to the directors and officers of these corporations. They are going to continue to be liable for them.

There is no letting somebody off the hook because it got through a tribunal. It is simply a mechanism whereby if somebody would like to pull the string on such a related-party transaction, they would at least get to see that they can pull the string if they feel like it. If they are wrong and do not pull the string, the parties are still going to carry whatever liabilities relate to it.

Mr. Foulds: I have asked enough now, Mr. Chairman.

Mr. Chairman: Thank you very much. We are running a little late. Very quick questions from Mr. Ferraro and Mr. Baetz.

Mr. Ferraro: A quick question, thank you, Mr. Chairman.

I understand what you are saying about no restrictions on ownership. Are you saying in the same breath that there should be no restriction on voting rights?

Mr. Burns: Being that we have a company with two sets of shares, one voting and one non-voting . . .

Mr. Ferraro: You might be the wrong guy to ask.

Mr. Burns: Probably the right guy. No, my honest opinion on that is that if there is stability of ownership and if the stability of ownership is active in the business, the business will grow and develop faster and on a better basis and for the good of all. If it is absentee ownership and in a non-business environment and is just collecting dividends, then I do not agree with it. But I think in our case, that our company has been allowed to grow, develop, build, employ more people because decisions can be made very quickly and we do not have to--you know, we can do--hell, the bulk of my family wealth is in one security, and if I mess it up I am in a lot of trouble with a lot of relatives.

Mr. Foulds: They are the worst people to be in trouble with!

Mr. Burns: You better believe it.

Mr. Ferraro: Well, I am not rich and I am in a lot of trouble with my relatives.

Mr. Burns: But you see, I think also it allows you to put management in place and allow management to manage, and they are not looking over their shoulders and worrying about who is going to be there the next day looking over their shoulder, who is going to be--you know, they are not worried about golden parachutes, they are not worried about getting pot-shot at, and they can get on with doing what is right for the business.

Mr. Ferraro: Do you think it would make any difference--a supplementary--if we said 51 per cent voting rights from a majority ownership? Or if we said--in other words, what you are saying is there should be no limit on either ownership or voting rights. My question to you as a supplementary is, would you be happy with just 51 per cent or do you think it would make a difference?

Mr. Granger: I do not even understand the concept. Can you explain it to me?

Mr. Burns: Well, that you have to have 49 per cent . . .

Mr. Ferraro: You have 49 per cent in other hands, other

directors.

Mr. Granger: For what kind of corporation?

Mr. Ferraro: An imaginary one.

Mr. Burns: No, I think it really boils down to . . .

Mr. Ferraro: What I was trying to get at was, does it matter the degree of voting authority that the owner would have? That is what I was trying to get it. In other words, some people would come out and say, we think you should have a 10 per cent limit. Some people would say a 40 per cent limit; some people would say 30 per cent. That is the context of the question.

Mr. Burns: I question--look, if there is one person with 30 per cent of the institution, whatever business it is in, and the balance is widely held, he in effect controls it. I mean, I can say this, that my father for 30 years or 35 years controlled the Crown Life with 35 per cent of the votes and was unchallenged. So I think when you get that concentration, it only is a factor if 70 per cent is in a voting--the balance is in a--51 per cent of it is in a voting trust or is in one block. Then probably you are not going to get somebody taking 30 per cent.

Mr. Granger: There is another side to the coin, and that is for people to be in a position of control without the ownership, and that, it seems to me, is greater than the one you are directing your question to.

Years ago, life companies de-mutualized. They took their family--the Burns family, for instance, could have taken its ownership, sold it to the policy-holders, mutualized the company, taken the cash, but stayed on as chairmen. They would have been self-perpetuating, as others have been in that position. They would have had all the attributes, personal and so on, that come from that without anything at risk.

Our Canadian chartered banks have a scheme of governance that does not have anybody at risk that is there. Their boards of directors and their officers do not reflect the ownership of the corporations in any direct, tangible way. In fact, if one was to go out and acquire 10 per cent of the shares of a bank, I am not sure he would be invited to sit on the board of directors. Indeed, they might want him exactly away from the board of directors where his views might get raucous and so on.

So there are two sides to the coin. Corporations that are owned by the people that are involved and so on seem responsive to the needs of shareholders, in any event, because that is where their money is. As Michael said, that is where their family money is invested. They have got a very real stake in seeing this corporation do well, as do all shareholders.

Mr. Chairman: Mr. Baetz.

Mr. Baetz: In view of the fact that about 70 per cent of your business is done abroad, most of it in the United States, I am wondering--I would like to just get a few comments from you on what implications this would have for your company if the exchange rate of Canadian and American dollars were suddenly to change. In other words, if the Group of Seven nations finally persuaded somebody that our dollar was seriously undervalued, what would it do? I mean, I am trying to think the thing through. Are you like the manufacturing sector? Are you happy that our dollar is weak and it enables you to compete very effectively, or does it not matter to you, or where do you stand on that?

Mr. Burns: I will let Bob answer that. I want a few comments afterwards.

Mr. Luba: I think in an overall sense, we are competing in those marketplaces based on the products and activities within the marketplace. We do at the current time have a slight advantage because of the exchange rate. What we do in Crown Life is, we in effect manufacture the products here. If we sell a life insurance policy in Texas, the application form comes here, it is processed and the policy is issued from here. So that clerical backroom, if you will, is in Toronto. If the exchange rate moved quite dramatically, that competitive advantage would go away.

In a dollar of sales, the advantage, I would think, is in the 2-to-3 per cent range, between parity and where we are at now. If it moved to parity, we would probably have a 2-to-3 per cent of sales problem in that line of business.

But overall, I think we compete within that locale based on the products within that locale, and we are not totally dependent on the exchange rate, but it is helpful.

Mr. Baetz: On the profit then, a \$1 revenue, a \$1 profit in U.S. dollars, is this translated into \$1.40 for your company, for our company, for the shareholders and so forth here?

Mr. Luba: That is correct, yes.

Mr. Baetz: Thank you very much.

Mr. Chairman: Thank you very much, gentlemen, for your presentation. I am sorry that I was not here at the beginning of it, but what I did hear, I was fascinated with. I appreciate the time you have given to us.

Mr. Burns: Thank you very much.

Mr. Chairman: We have next Professor Stephen Dupré, Professor of Political Science at the University of Toronto and Chairman of the Ontario Task Force on Financial Institutions, which

reported to the Minister of Consumer and Commercial Relations last December.

Professor Dupré, welcome to the committee. We appreciate your coming. We appreciate your waiting. We were taken with some interesting questions with the last witnesses, and we are looking forward to what you have to say. I understand you have a few comments that you wish to make as an opening and then you are prepared to field questions.

PROFESSOR STEPHEN DUPRE

Prof. Dupré: Thank you very much, Mr. Chairman.

Mr. Chairman and honourable members, I am honoured by the invitation to appear before this standing committee. I understand that the subject matter in which you are interested is concentration. The report of the Ontario Task Force on Financial Institutions treated concentration as only one of a number of matters of concern. I will confine my remarks this afternoon to that subject.

By way of introduction, I should place the qualifications of my two task force colleagues on the record. As Deputy Attorney General and also Deputy Treasurer of Ontario, A. Rendall Dick has had one of the most distinguished public service careers in this country. In these positions, among other things, he had a front row seat on the unhappy and well-known events that sporadically befell the Ontario financial industry over two decades, going back to British Mortgage and Atlantic Acceptance. His credentials as an expert on the causes of financial institution failure are therefore beyond question.

Mr. Alexander J. MacIntosh, a senior partner of Blake Castles, is one of the most widely experienced corporate directors in Canada and an expert on corporate governance.

You may well wonder at this point why I chaired the task force. So do I. I refused an initial invitation to chair the task force on the grounds that I knew nothing about financial institutions. The answer came back that this was precisely why I must perform this service. What was wanted was a chairman who knew something about government regulation in general but whose ignorance of financial institutions guaranteed that he could have no preconceived views on the subject.

Although I appear today solely on my own behalf, Mr. Chairman, it is appropriate that I pay tribute to Mr. Dick and Mr. MacIntosh as a student should pay tribute to two outstanding teachers. I owe my education on the subject of financial institutions to them. Now, as a graduate of their school, I speak here this afternoon for myself.

Concern over concentration, Mr. Chairman, can initially be rooted over concern about self-dealing; that is to say, non-arm's-length transactions carried out in the interests of persons

with significant influence or ownership of a financial institution, but to the detriment of the interests of that institution itself. In turn, Mr. Chairman, concern about self-dealing is justified both by solvency considerations and by market considerations. Evidence of self-dealing as a root cause of insolvency is incontestable. Here in Ontario, self-dealing paved the road to Atlantic Acceptance, as it paved the road to Seaway, Crown, Greymac. But concern over self-dealing is equally grounded in market considerations.

The essence of a market, Mr. Chairman, as Adam Smith taught us, is the self-interest of its participants. When the forces of demand and supply are not articulated by buyers and sellers who are at arm's length, but instead are in the shadow of an overlapping ownership interest, there is a denial of what the market is all about. In that common and concentrated ownership of financial institutions has become as prevalent as it is, the following are the prescriptions to let us have our cake and eat it too: that is, reconcile common and concentrated ownership with an absence of self-dealing. These prescriptions are, I am sure, familiar to honourable members. They consist of, first, Chinese walls, second, business conduct review committees, third, legislative bans coupled with stringent regulations.

All of the recent reports on financial institutions with which I am familiar advance these prescriptions to varying degrees. I refer, of course, in addition to my own report, to the Blenkarn report of the Committee of House of Commons, and to the report of the Senate committee on banking, chaired at the time by Senator Lowell Murray.

There are shades of differences among these reports. The Senate report, for example, places greater faith in business conduct review committees than my own report. Whatever the case, Mr. Chairman, there is a clearcut, well-known menu of prescriptions that are designed to try to reconcile concentrated ownership with an absence of self-dealing.

If you want to get away from, of course, the concentrated ownership situation, two alternative prescriptions have been put forward. The first of these is forced divestiture. The second is encouragement of widely-held ownership over time as a matter of public policy.

The Blenkarn report to the House of Commons, Mr. Chairman, is by now well known for the so-called "famous table" that appears on page 58 of the report, which is very likely familiar to you, and that would link the degree of concentrated ownership permitted in a financial institution to the asset size of the institution. There is a sliding scale whereby a financial institution with assets of under \$10 billion could be 100 per cent owned by a single party, going all the way in steps to one where a financial institution with domestic asset size of over \$40 billion could not have more than a 10 per cent owner. Although this table, as has been pointed out, accommodates the ownership patterns of most financial institutions at this time, it

would nonetheless force divestiture in certain instances.

Mr. Chairman, the report of the task force which I chaired rejected the alternative of forced divestiture as potentially disruptive of the financial industry. It favoured instead the implementation of measures which, as a basic principle of public policy, would encourage the development of widely-held ownership of financial institutions. Widely-held ownership would be achieved gradually, as the ownership of institutions changes from time to time and as new entrants seek regulatory approval to enter the financial industry. I shall elaborate on the implementation of this alternative in a moment.

But before doing so, Mr. Chairman, I will make a personal confession. This is that in the wake of the Genstar/Imasco/Canada Trust situation, which arose after the submission of my task force report, I would no longer dismiss the alternative of forced divestiture, but instead keep it alive, if only as a potential threat that draws the attention of all the players.

As for the alternative of widely-held ownership as a matter of public policy, I embrace this alternative more wholeheartedly than ever. It is particularly appropriate, I think, that I should elaborate on the implementation of this principle with respect to the securities industry. This is because, as of the ministerial announcement of June 11, 1986, there is a new government policy on the ownership of securities firms. Given your committee's concern over the concentration issue, the policy on domestic ownership is, I believe, particularly pertinent.

As you are aware, government policy opens ownership of securities firms to banks, insurance companies and trust companies. To quote from the honourable Monty Kwinter's statement: "At a minimum, we will be permitting them to own up to 30 per cent of a securities firm." Furthermore, in the Minister's words, "we are prepared to discuss allowing Canadian financial institutions to obtain an even higher ownership level."

With respect to the matter of an ownership limit higher than 30 per cent, Mr. Chairman, my task force report has a pertinent observation. In a setting where the owner/operators of a securities firm are one, two, or at most five per cent owners, it was our view, expressed in our report, that a single owner with a 30 per cent interest would exercise influence so substantial that it would border on control. It follows, Mr. Chairman, that a higher ownership level is easily defensible on the ground that at the 30 per cent level the distinction between financial intermediation and market intermediation has already been breached.

Although I consider that the distinction between financial intermediation--if you will, what banks, trust companies and insurance companies do--on the one hand, and market intermediation on the other hand--the underwriting activities of securities firms--has served Canada well, I must admit at this time that the

impending global collapse of this distinction, epitomized by London's forthcoming big bang and by a worldwide trend towards the securitization of debt, is making this distinction obsolete. To be sure, Mr. Chairman, in that new conflicts of interest arise once financial intermediaries own securities firms, new and stringent regulations will have to be put in place.

But my subject matter today is concentration rather than regulation. I put it to you that in the light of a new ownership policy, it is more important than ever that it be accompanied by a well-enunciated policy to encourage widely-held ownership, and that this policy be rigorously implemented.

To be specific, Mr. Chairman, in approving any applications that would entail ownership of a securities firm above the level of 10 per cent, I submit that the Ontario regulatory authorities should be specifically directed, first, always to give preference to applications by financial institutions which are themselves widely held. In practice, Mr. Chairman, this will mean favouring applications from banks and mutual life insurance companies.

Second, Mr. Chairman, it will be important to refrain from approving ownership by a closely-held financial institution unless there is evident need for this investment, and provided that this closely-held financial institution and its affiliates are engaged solely in the financial business.

This submission, Mr. Chairman, would preclude ownership of a securities firm by a trust or insurance company that in turn forms part of a vast conglomerate whose holdings, like those of Power Corporation and Edper Investments, are a mix of real--or, if you prefer, commercial--companies, and financial institutions. The continued separation of the real and financial sectors of the economy remains, in my view, eminently desirable. This separation imposes the most salutary discipline on the users of capital because they must satisfy financial institutions of the feasibility of the purposes for which they seek funds. The separation of the real and financial sectors is already, alas, breached by the major conglomerates. It is eminently desirable, in my view, Mr. Chairman, to attenuate this separation, and eminently undesirable to erode it yet further by permitting these conglomerates direct ownership of securities firms.

I am concerned, Mr. Chairman, about the concentration already inherent in these conglomerates, on three grounds. First, there is the straightforward issue of concentration of power, in Lord Acton's famous term: "All power corrupts; absolute power corrupts absolutely." A conglomerate can easily become a self-financing ring which, under economic pressure, will prove unable to resist the temptation of self-dealing.

Second, Mr. Chairman, there is the issue of confidence in the overall fairness of the financial system. A financial institution which forms part of a conglomerate and, in turn, rations the credit it extends to a client outside the conglomerate, is easily perceived as

restraining the capacity of that client to compete with firms within the conglomerate.

Third, Mr. Chairman, in my respectful view, all the so-called business conduct review committees in the world and all the regulators that can be imagined are not proof against the abuses of self-dealing. In the words of my task force report, "Assurance that self-dealing will not arise in situations of closely-held ownership requires two acts of faith: the first, in the integrity of controlling owners, and the second, in the capacity of regulators to ensure that self-dealing prohibitions are in fact enforced. More than enough incidents have yielded more than enough evidence to tell us that these acts of faith rest on foundations that are anything but robust."

Now, Mr. Chairman, in conclusion, if I could capsulize my reaction to the government's new ownership policy with respect to securities firms, I consider that this policy is certainly defensible given global developments, provided it is accompanied by a policy that will clearly favour ownership of securities firms by widely-held financial institutions, and by a policy that will keep the large conglomerates that are a mixture of real and financial enterprises from owning such securities firms.

There is only one part of the government policy that frankly has left me completely puzzled. It is that part of the policy whereby, apparently, a Canadian non-financial institution could be a substantial owner of a securities firm. I say that I am left puzzled here because I cannot in my own mind understand what would justify this kind of breach between the real and the financial sectors.

If, of course, permitting a non-financial enterprise to own a securities firm is yet another entrée for the conglomerates, then of course I think the idea of permitting such ownership should be rejected. If on the other hand the idea behind the policy is, shall we say, to let a free-standing commercial enterprise--a mythical, let us say, Acme Screw and Gear own a securities firm--I cannot for the life of me comprehend what kind of synergy or mix of corporate structures would be involved.

Honourable members, Mr. Chairman, that concludes my opening remarks, and I am in your hands.

Mr. Chairman: Thank you very much. You have given us some interesting food for thought and interesting conclusions.

Mr. McFadden.

Mr. McFadden: Professor Dupré, you certainly had the opportunity to look at this in a non-political, more or less dispassionate light through your work on the task force, and before and since. One of the things that has struck me is that concentration seems to fit into three distinct categories.

First of all, you have the situation where you have

concentration of power and assets, and very clearly in Canada we have a huge concentration of the banks. Now, admittedly, they are broadly held, but nevertheless there is a huge concentration within our six majors. That is one concentration.

You then have a concentration of economic power with the conglomerates, and all their tentacles into financial services areas and as well into industry and health care and who knows what else, and the potential problems that might create for self-dealing.

The third concentration question you have relates strictly to ownership levels--forget about conglomerates or anything else--within the financial services, actually. And they may not well be conglomerates; it could just be an individual, and E-L Financial I think is the best example of that. It is all financial. So you have a concentration of ownership in the sense that that person or his particular group have a concentration of ownership in that financial institution.

Now, if you look at the panorama of all these, I am just curious to know where we should be most worried in terms of concentration of ownership. Should we be most worried about the tremendous build-up and continuing build-up within the banks? And of course, the Minister's Securities Act may just reinforce that because that will open up a whole new area for them. Should we be most worried about conglomerates and the potential for self-dealing? Or should we just be worried on a more micro level here with companies and share ownership within the group?

I know there is an interrelationship, but it seems to me you have got three big concentration issues, and I am just curious to know which package you would think is the most problematic, or do you think they are all problematic and we should worry about them all equally?

Prof. Dupré: Mr. Chairman, that is an excellent question, and rather than begin my answer by broaching what you might or might not be most worried about, I will begin my answer by pointing out what you probably do not have to worry about. What you probably . . .

Mr. McFadden: That is a good place to start.

Prof. Dupré: What you probably--very interestingly, to me--do not have to worry about is the state of competition with respect to the provision of financial services. Certainly what my task force experience impressed abundantly upon me is that competition in the provision of financial services takes place in a wide number of different markets: the market for retail deposits, the residential mortgage market, and so on and so forth. Over time, what we find has been happening as institutions expanded their powers is that there has been a great deal of competition in these several markets, sufficiently so that frankly, the enormous asset kind of concentration that you find in the banks, to me, has not in any way interfered with competition in any of the number of markets in which

they operate.

Likewise, of course, what has been done by closely held financial institutions that restrict themselves to finance has not restricted competition. Indeed, it has enhanced it. And to give the conglomerates my pat on the back, their own activities have certainly played their own role in enhancing competition.

So at this juncture, at least for the time being--we all live in the short run, of course--but for the time being, I do not see any of the three areas of concern outlined by the honourable member as causing you any need to worry about the competition side of things.

Now, at this juncture I will make the following observations. With respect to closely-held financial institutions that restrict themselves to the financial business, the concern, I think, is very real but it is not an issue of concentration. It is a very straightforward issue with respect to self-dealing, particularly insofar as self-dealing should be a concern for reasons of solvency. It is indeed among institutions that the famous Blenkarn table would leave 100 per cent owned, the \$10 billion or less in assets, that we have had some of our great disasters occasioned by self-dealing. Closely-held ownership at this juncture may be a concern because it creates, of course, the possibility of self-dealing, but concentration is not an issue.

Now if I turn to, of course, the banks, especially the large banks, what I perceive, Mr. Chairman, is that over time, particularly because there has been an erosion in our four pillars and of course insurance companies and trust companies have been able to move in to give the banks competition in the many markets in which they offer services, I believe that the simple asset size situation, given of course that banks are widely held, should not prompt all that much concern over concentration.

Now, by a process of elimination, I have come full circle to the major conglomerates that are a mixture of real and financial enterprises. At first blush, Mr. Chairman, like everyone else, I never fail but to be impressed by the quality and by the integrity of the individuals who hold senior positions in these firms. What I have preached to them when I have held my own hearings has simply been the following: there is a line in the Lord's prayer, Mr. Chairman, that is particularly pertinent to them. That line is: "Lead us not into temptation...." It is not when times are good, but when different parts of a vast conglomerate can come under economic pressure, that the temptation to engage in self-dealing--or that the temptation perhaps to have a conglomerate work as a self-financing ring--may become irresistible. And we are all human.

Mr. McFadden: Could I ask a follow-up on this area of self-dealing? We have heard a range of views on that, everything from the fact that, "Don't worry about it; if you have capable directors and proper audit committees everything will be fine, because those people should only make investments that are in the

best interests of the company, whether it is with a related company or with some third party"; we have also heard the proposal that there be an outright ban--period, full stop--no self-dealing with related companies at all.

The other one, I guess the middle point, is the idea that--and I guess there are really two houses there: you can have self-dealing but you notify some public agency and the public agency will have 30 days to deal with it, to another thing where you say basically there is to be no self-dealing but you could apply and get approval, which is sort of the reverse of the other self-dealing regulatory option.

Dealing with that, are there any one of those options that you find more attractive than another, or do you just--would you take a total prohibition, or do you feel there is some regulatory thing we could build in?

Prof. Dupré: Well, Mr. Chairman, the quick answer to that question is that my report came down very heavily on the side of an absolute ban on self-dealing, save for transactions in which the market quite automatically produced prices as a benchmark.

But that much said, I want to make the following observations. I think, Mr. Chairman, that the role of audit committees, the role of business conduct review committees remains enormously important. It remains enormously important not least because, frankly, I am a regulatory pluralist. Anybody can write in a piece of legislation that something should be done; implementing that legislation is something else. And therefore audit committees and these business conduct review committees have an enormously important role.

Again in the vein of being a regulatory pluralist, though, Mr. Chairman, I will say that adequately staffed regulatory agencies have an important role. Anyone who holds hearings, as you do, of course, carries away memories of particular witnesses. One of the witnesses that I heard whose memory is seared in my mind is J. Douglas Gibson, certainly one of the most experienced corporate directors in Canada. The little lecture he gave us, Mr. Chairman, on the existence of "pliant outside directors," which is on the public record, is certainly something that I can commend to anyone who would want to entrust everything to audit committees and business conduct review committees.

Mr. Mackenzie: That is not the impression we got from the previous witness!

Prof. Dupré: I cannot speak for the previous witness.

Mr. Foulds: Nor, I understand, would want to!

Mr. McFadden: So you come down in favour. . .

Prof. Dupré: I still come down in favour of the outright prohibition.

Mr. McFadden: Would you think that there is any possibility of some form of a regulatory approval in certain circumstances, or do you feel that that just opens a Pandora's box of problems?

Prof. Dupré: Well, Mr. Chairman, to unbutton myself, I will say this. The view that is being put to me in the question is one that was certainly pressed upon me, and I very much realize that it is being pressed upon this committee. If I unbutton myself, I guess what I would say is the following: the moment you start to step back from a stringent ban on self-dealing--which, mind you, has already forced you to make an act of faith that these transactions will be identified--but the moment you step back from that to say, "Well, maybe we could be more permissive," the problem, of course, that I encounter is that the magnitude of the act of faith I am asked to make goes up. There is going to have to be, self-evidently, I think, a good deal more discretion placed in the hands of regulators.

My short answer is, how you consider this as a committee should be really an index of the kind of personal faith that you have in regulatory discretion. If it turns out that you have more faith than I do, then of course I think that the 30-day kind of situation that the honourable member outlines at least gives the regulators a little window of time to let a particular event sink in upon them, rather than having a situation where the train has already left the station. Is that fair enough?

Mr. McFadden: That is fair enough. Thank you, Mr. Chairman.

Mr. Chairman: Mr. Foulds.

Mr. Foulds: I have a couple of questions I would like to ask, but first let me thank you for your blunt and refreshing presentation. And I thought I might--if I understand you, you say that we should be mindful of the line in the Lord's prayer, "Lead us not into temptation...." That is so that the following line, about "Forgive us our trespasses...." does not have to be uttered publicly or privately, I suppose.

One of the things that struck me was that you are so firm in your conviction about the outright ban on self-dealing, and you are so firm--I think you are probably the firmest witness we have had in terms of financial institutions of all types being widely held. Can you give us some idea of the process that you went through to arrive at this conclusion?

Prof. Dupré: Well, I think in part, Mr. Chairman, what certainly helped us towards that conclusion probably took place before the process we had as a task force. And here I do refer, of course, to the very considerable experience that Mr. Dick had as Deputy Attorney General, as Deputy Treasurer. That, of course, gave him that front row seat on the unfortunate events that we know so

well.

As the unknowledgeable member of the task force, I will tell you at this juncture that I was equally impressed by the vigour with which my other colleague, Mr. MacIntosh, who comes from the corporate side rather than the regulators' side, espoused exactly the same view. Doubtless, you might wish to have either of my colleagues speak for themselves on this issue.

I will say this: as the lay observer in our three-cornered discussions, what I found enormously impressive about the consensus between my two colleagues was that one, from the standpoint of regulatory experience, was saying, "Beware of the loopholes here and there that expand regulatory discretion." My other colleague, Mr. Chairman, was impressing me very much because I was saying to myself, here is an individual who comes at it with, shall we say, the Blake Castles expertise in looking for and opening loopholes; I believe that he is telling me that if you have loopholes in the first place, they will become wide-open garage doors by the time the expertise of the legal profession gets through them.

Mr. Foulds: So what you are saying is that the only real bulwark we have are those two firm ones because once those get breached, the breaches can enlarge.

Prof. Dupré: Well, what I am saying is this: if you want to consider something other than the sort of absolute ban that your colleague broached in his hypothetical question, what I learned in the task force school I attended was, think twice. Think twice about these kinds of partial exceptions, for two reasons. One is that regulatory experience indicates that it is awfully difficult for regulators to handle that discretion. Another source of experience says that the kinds of exceptions you put in in the first place are going to turn out to be much larger exceptions than the legislator intended, given the ingenuity of the legal profession to open up loopholes.

Mr. Foulds: We have had testimony before us--and I do not think I am misquoting it--that said that the disastrous occasions, in other words financial collapses that we have seen in recent years, were not related to self-dealing. I do not think I am misquoting some testimony.

Mr. McFadden: They said bad management.

Mr. Foulds: Yes. Would you comment on that?

Prof. Dupré: There are certainly a number of instances where, of course, this appears to be the case. We catalogued the various sources of failures as having involved not only self-dealing, but--the list is right in here somewhere--poor management was very definitely one, and of course a lack of diversification in assets and liabilities. These are enormous causes of financial failure, and of course the Estey Report, which will have looked at the CCB collapse,

will have a great deal to say about this.

Our findings, simply, though, in terms of submissions before us but also the research that we did, made it quite evident that self-dealing, along with some of the other causes, did feature very prominently in any of a number of situations. And certainly I think it should be very hard, Mr. Chairman, for anyone to convince an Ontarian that self-dealing cannot be at the root of certain failures.

Mr. Foulds: Thanks very much, Mr. Chairman.

Mr. Chairman: Mr. Mackenzie.

Mr. Mackenzie: Yes. Just along the same line as my colleague. Talk about impressions--it stands out in my mind that the previous presenters' views, although they were almost in lock-step with a few others that we have had, and your own are so diametrically opposed in the message that is being given to us that certainly, as a lay member in this subject in this committee, it throws me a little bit. I sort of appreciate your presentation simply because I felt that I was being told that somehow or other I was just not trusting the wealth of experience and authority and business acumen, if you will, by suggesting or asking questions about the need for diverse ownership or the dangers of non-arm's-length dealings, and you begin to wonder or question your own judgment on the issue. And then we get a presentation such as yours.

And I am not sure just exactly what we should be looking for in each of these presentations, other than one or two of the points you have made, to make a value judgment on what we have heard. I think you have helped me a bit, but I am just struck by, I guess, the "We are a bunch of good guys and we have been really successful, and you really should not be putting these obstacles in our way," on the one side, and then as hardhitting a presentation as you have given us here this afternoon.

Prof. Dupré: Well, Mr. Chairman, I would like to thank the honourable member for those remarks. Perhaps a pertinent point would be that I am here this afternoon because I was invited by your Clerk to appear. Absent an invitation, you would not have heard me, and this may perhaps permit the observation that the invitation of witnesses, as well as the hearing of witnesses who bring themselves forward, may be of value as this committee proceeds.

Mr. Chairman: The large corporate witnesses have not been tumbling over themselves to get here. However, that is an interesting point.

Mr. Ashe.

Mr. Ashe: One last quick item, and unfortunately I got called out a couple of times. I hope it was not covered. If it was, please say so and I will catch it in the record.

I think there has been a general reaction to the question of self-dealing, et cetera, in the way of speaking that it is a good thing, that where there has been, just about without exception--and I think maybe you touched upon it when you were summarizing what was in your report--where there has been self-dealing that has ended up causing problems, it was because the regulators did not look at the people in advance. In other words, if you make sure at the beginning that it is honest, reliable, respectable, good-record people, that it is much less likely--I do not know that anybody ever said impossible--but much less likely to happen; that when you look at the situations where it did happen, it usually involved people that maybe should not have been allowed to be in that position in the first place. Do you think there is any credence to that argument, from your studies and experiences?

Prof. Dupré: Yes, sir, I think there is a great deal of credence to it, and to blow the horn of my report, if I might, since you have given me the opportunity, I would like . . .

Mr. Ashe: No charge, no charge!

Prof. Dupré: I would like to point out that we emphasized that with respect to personalities and so on who come before the regulators for approval, with respect indeed to the whole variety of matters that can come together in terms of applications to the regulators with respect to new incorporations, transfers of ownership and so on, we pointed out that in our view the standing committees of the legislature may have their own very salutary role to play, simply in the form of requirements that there be tabling of the information that regulators had before them at the time they made decisions, with a standing committee of the legislature.

To be specific, one of our recommendations was that a standing committee of the legislature should be designated as the mandatory recipient of a compendium of all new incorporations, changes in ownership and other matters, as prescribed in any of a number of recommendations we made in the report, and also of all reports required of the superintendents of deposit institutions and insurance and of several other official bodies in Ontario.

And our rationale for this kind of recommendation, Mr. Chairman, was very simply that there is an added safeguard, an added check and balance with respect to the integrity of the regulatory system if regulators know that the decisions that they are making, the people of whom they are approving, see the light of day before a standing committee of the legislature.

Mr. Ashe: Thank you.

Mr. Chairman: Thank you very much. Any other questions?

This has been extremely valuable, sir. I think Mr. Mackenzie summed up a lot of the thinking that has been going on in a lot of our minds. I think we are going to have to take a second, closer look at

your report, and we appreciate very much your coming here.

Prof. Dupré: Mr. Chairman, it was an honour to be here.

Mr. Foulds: I just thought of one quick thing. Could you point our researcher, Mr. Bond, quickly to the place in which he can find that little lecture by Douglas Gibson on "pliant outside directors"?

Prof. Dupré: Yes, because we . . .

Mr. Foulds: You actually included it?

Prof. Dupré: We cited where it is in the report, and I will be able to give Mr. Bond the citation momentarily.

Mr. Foulds: I would like him to dig that out for us just so I can read it before I fall asleep some night.

Mr. Chairman: Thank you very much.

One brief matter of housekeeping. Some time ago, as a result of a discussion, I listened to a fair amount of argument in favour of asking someone from the Blenkarn Commission to come and talk to us, but the position of the committee was that they wanted to think about that for a week. I think more than a week has gone by, and no invitation has been extended because the Clerk was not in fact instructed to. Does the committee have any further thinking on that subject?

Mr. Foulds: After this stage I would find that useful, actually, because we now have had views from the corporate world, if you like; we have had views from some independent consultants. So it might be worthwhile to have a representative of the committee, and I think there was a minority report as well.

Mr. Chairman: Yes.

Mr. Foulds: One of the signers of the minority report. I do not think it is of great urgency, like immediate urgency, but I think probably you would want to include . . .

Mr. Chairman: It would be helpful to us. Bring them in together perhaps?

Mr. Foulds: Sure.

Mr. Chairman: A representative of the minority plus the chairman?

Mr. McFadden: One of the things that strikes me is the proliferation of studies. I believe Professor Dupré mentioned this, or someone did, about the Senate committee as well.

Mr. Chairman: Yes.

Mr. McFadden: The Senate Committee on Banking, it seems to me, does an awful lot of work in this area, year in, year out. I do not know if it is possible to get some sort of a meeting with them and the Commons committee at one time, because surely the people on the Senate end have made this a study for years, and it would be interesting to find out what they are doing. They seem to release reports on a regular basis. So I am just wondering if we could not find some way to get it all done at one time, because we do not want to be tripping over each other with all our reports, and both--the Senate is almost more regular in what they do than in the House. I am just wondering if it would not be worthwhile trying to get some form of meeting with them at the same time. Maybe that is too much.

Mr. Ashe: Maybe we could have a joint meeting in Nassau or something.

Mr. Chairman: Are you suggesting the whole committee?

Mr. McFadden: Well, I do not know how we do this. Well, no. I was thinking of maybe the chairman or some appropriate person who has been involved in doing all this work and having all these hearings as they have done in Ottawa.

Mr. Chairman: Is that Senator Murray?

Mr. McFadden: Yes. I guess it was Senator Murray. Maybe we could meet with him.

Mr. Chairman: He must be a close friend of yours, Mr. McFadden.

Mr. McFadden: He is not the chairman any more. But maybe we could meet with him since he was the one who was chairman. I do not know if he would be available, but he was the Senator who chaired the various hearings they had looking at this, and it has been cited several times so far.

Mr. Chairman: But you are talking about that not in the same context as Blenkarn, or are you?

Mr. McFadden: Well, it seems to me everybody has been going at this issue almost simultaneously.

Mr. Foulds: I think what David is suggesting is that if we hear these witnesses, we hear them, if not on the same day, concurrently or sequentially.

Mr. McFadden: Well, if we possibly can.

Mr. Chairman: All right. So the Clerk then should perhaps contact Mr. Blenkarn, a representative of the minority on his committee and the present chairman of the Senate committee, and see if a date can be arranged in which all of them, if possible, could be

here.

Mr. McFadden: The only thing I would raise, Mr. Chairman, is that there may be a question of propriety or whatever, of having them here as witnesses. It might be that a meeting with them might produce more than doing it that way. I do not know what the normal courtesy is back and forth between parliamentary and legislative committees, but I am wondering if the more normal thing . . .

Mr. Mackenzie: I think David may have a point there. I think it would be useful to have the meeting. Whether they are here as a formal witness or not is another matter.

Mr. Chairman: Perhaps that could be canvassed and checked out.

Mr. Foulds: There are two precedents. We could in fact go to Ottawa, perhaps, if that were the right protocol. The other thing is I know that when we were on the Hydro committee, we did have a member of the federal Parliament, Mr. Stevens, at that time, testify before us about the international uranium cartel.

Mr. Chairman: We had one on the Trade committee who asked to come and speak to us.

Mr. McFadden: I just thought it might be more productive--I am just raising this--to sit down and have a meeting with them, just to exchange ideas, then have this sort of formal session, given the fact that they are another parliamentary body.

Mr. Chairman: All right. Thank you very much.

One other thing before we adjourn. Tomorrow afternoon--the pattern continues--Mr. Frank Zinatelli, of the Association of Canadian Financial Corporations, will not be here. He is sending a written brief. He does not wish to appear.

The Clerk: So it is cancelled for tomorrow afternoon.

Mr. Chairman: The Consumers' Association meeting goes on as planned.

The committee adjourned at 4:20 p.m.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS
CORPORATE CONCENTRATION
THURSDAY, OCTOBER 9, 1986
Morning Sitting



STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

CHAIRMAN: Cooke, D. R. (Kitchener L)

Ashe, G. L. (Durham West PC)

Barlow, W. W. (Cambridge PC)

Ferraro, R. E. (Wellington South L)

Foulds, J. F. (Port Arthur NDP)

Haggerty, R. (Erie L)

Henderson, D. J. (Humber L)

Mackenzie, R. W. (Hamilton East NDP)

McFadden, D. J. (Eglinton PC)

Substitution:

Baetz, R. (Ottawa West PC) for Miss Stephenson

Callahan, R. (Brampton L) for Mr. Ward

Clerk: Mellor, L.

Clerk pro tem: Carrozza, F.

Staff:

Bond, D., Research Officer, Legislative Research Service

Witness:

From the Consumers' Association of Canada:

McDonald, A.,

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Thursday, October 9, 1986

The committee commenced at 10:10 a.m. in committee room 2.

CORPORATE CONCENTRATION
(continued)

Mr. Chairman: Let us get started. Just before we start, I would like to say that next week, of course, the House will be sitting, and it would be my interpretation--and I think it would speak volumes to the House leaders--my interpretation of our previous resolution that next Thursday we would start meeting at 9:00 o'clock in the morning, even though we are still dealing with corporate concentration as opposed to forming a budget.

Mr. Foulds: I do not think we can do that without a resolution in the House, Mr. Chairman.

Mr. Chairman: The Clerk informs me we can do that. We can do that without a resolution in the House.

The Clerk: As far as I understand, the time of the committee can be arranged by the committee. You have that option.

Mr. Chairman: We met earlier this week at 11:00 instead of 10:00, and we did not--of course, that was before the House was sitting.

Mr. Foulds: Well, the House leaders will not be meeting until next Thursday.

Mr. Chairman: No. The other thing I wanted to tell you was that the House leaders, who we thought were going to be discussing us this morning, apparently had their meeting last week and will not be meeting again until next week.

So, housekeeping out of the way . . .

Mr. Foulds: Well, you will not get me here at 9:00 o'clock. Just understand that.

Mr. Chairman: All right. Because you are going to be talking to your constituency?

Mr. Foulds: You bet your life. I will be here at 9:30.

Mr. Chairman: Let us get serious, folks, because this morning we have with us Archie McDonald, and I expect we are going to have an extremely interesting session this morning because we have had probably a lot more input from the participants in corporate

concentration than we have from those who may be observing it or reacting to it. And obviously, those for whom we should be extremely concerned would include the Consumers' Association of Canada.

Mr. McDonald has a submission which has been distributed, and as well, he is going to go through that with us and then will entertain questions.

Mr. McDonald.

CONSUMERS' ASSOCIATION OF CANADA

Mr. McDonald: Thank you very much, Mr. Chairman.

It is certainly a pleasure to be here on behalf of the Consumers' Association. I bring you regards from our President, Barbara Beck, who unfortunately was not able to attend this morning. I spoke to her before leaving, and she asked me to bring her wishes to the committee.

I was hoping that the Chairman would not bring things too quickly to a serious note because, while people are in the mood for levity I thought probably I would tell just a little story that I picked up while I was doing a bit of review for this presentation. It had to do about committee matters.

Apparently, one of the most important buildings at Oxford University was built on a piece of ground that had a 999-year lease, which only came to the attention of the university people after some time and after the building had been put up. So they started to set up a committee to decide what to do when the lease was over, and they took a look at the material and found that there was 404 years gone. One wag said, "On the basis of the progress that committees normally make, I think it's about time we set up a committee to decide what we should do."

Mr. Foulds: We do that all the time.

Mr. Callahan: That is how they keep us off the streets.

Mr. Foulds: Speak for yourself!

Mr. McDonald: Now for the more serious matters, Mr. Chairman.

The Consumers' Association of Canada is a voluntary non-profit, non-governmental organization with more than 160,000 members throughout the country, of which in excess of 56,000 reside in Ontario. It is devoted to informing consumers on a wide range of consumer policy issues, goods and services, and to providing them with a united voice for expression of their views to government, trade and industry.

CAC (Ontario) welcomes the opportunity to express our

views to the select committee examining the organization and operation of financial institutions in Ontario.

The position of the Consumers' Association of Canada (Ontario): the Consumers' Association believes firmly in the principle that more, not less, competition ultimately benefits the consumer.

The CAC believes that the trend to increasing concentration in financial institutions and the blurring of the traditional four pillars is not in the best interests of consumers because a large concentration of financial power in the hands of a few will ultimately result in oligopolistic behaviour and economic costs being passed to the consumers, based more on organizational inefficiencies than the resultant market-driven prices assured by a highly competitive market made up of many competitors.

The CAC believes that when corporate concentration in financial institutions increases, the risk to the consumer sector multiplies in an unacceptable fashion. For example, large loans by banking institutions to high-risk creditors, for example oil and gas explorers or foreign debtors, et cetera, carry with them an undue high level of financial risk to both the lending institutions as well as the general economy.

In many instances, the size of the loans and the attendant risks arise solely from the lack of competition in the financial marketplace. Many of us are familiar with Lord Keynes's oft-quoted phrase, which I wish to repeat here as a means of underscoring this all-important point. Lord Keynes once said, "If I owe the bank \$1,000 and I can't pay, I've got a problem. But if I owe the bank a million dollars and I can't pay, the bank's got a problem."

When a few financial institutions are capable of making loans so large that the question of their very repayment places a shadow over the community's--that is, depositors'--financial system, then corporate financial concentration cannot be said to be good.

There are numerous examples of this very situation in the world today. Many of our Canadian banks, for example, have large loans outstanding to creditors whose ability to repay is in question and who, in a real sense, hold hostage the Canadian consumer. This raises the real question of whether consumers, in the sense of depositors, ought not to have more say in the decisions leading up to the use of depositor funds.

Another issue that affects the Canadian consumer relates to the very important issue of cross-ownership of financial institutions and the problem of self-dealing. Freely competitive marketplaces result in economic decisionmaking based on the principle of economic prices set by supply and demand. Supply, costs and prices derive from market-driven efficiencies, not from administrative arrangements. Self-dealing clearly can and does result in prices to the consumer that are set to maximize corporate profit, without normal interplay of market forces. For example, when a financial institution refers its

customers to an interlocked corporate entity, the customer frequently will end up paying a higher price than if a non-referral took place and the customer's choice prevailed.

One of the often-stated arguments for allowing corporate concentration of financial or economic power is that largeness is necessary in order to be efficient. This is often stated in relation to the need for largeness in order to be internationally competitive.

Although this argument may hold true for international markets, it is too frequently used by firms such as banks as an argument for increasing their size and control over the domestic market. The result here again, based on economic theory and evident in the marketplace, is higher costs to consumers than would otherwise be the case.

What does the CAC want? CAC (Ontario) believes that consumers would be best served by a financial system that is organized to maximize the efficiencies of capital asset utilization. Consumers want the least cost for servicing their capital requirements. In other words, the lowest possible insurance premiums, loan rates, transaction costs, trust administration services and so forth.

If this goal is best served through a high degree of corporate concentration in the financial community, then economic theory suggests that a greater degree of regulatory control is required to protect the consumer from abuse.

Thank you very much, Mr. Chairman.

Mr. Chairman: Thank you very much.

Mr. Ashe has a question.

Mr. Ashe: Yes. Thank you, Mr. Chairman. A question first, and then a few observations on a couple of the points.

Would it be a safe conclusion to suggest that your brief generally is talking about the Canadian banks per se?

Mr. McDonald: Actually, it is more oriented toward the Canadian banks, I guess in terms of some of the points that are made, than to other financial institutions. But the principles would apply to other types of institutions, whether they be insurance companies, whether they be brokerage houses or whether they be trust companies, in terms of the problems that arise through corporate concentration that goes beyond the point where you get competitive prices.

Mr. Ashe: That is not what I get out of your brief. Frankly, it comes across to me as being principally oriented to the banks because of their capacity, because of their largeness, to make huge loans--and using a couple of specific examples, offshore, of course,

and to the oil industry in Canada--which smaller ones could not do, and probably, quite rightly, should not have been done by the big boys. And I have no problem with that, but I find that somewhat inconsistent with corporate concentration in the context of limited ownership. As we all know, it is all limited ownership in the Canadian banks, in the large banks in any event; they are widely-held by law.

So that really is not the problem. I think it is size, which--in my view, the concentration is not necessarily the same.

Your views for example, personally and, I presume, on behalf of your association, what are they right now in terms of the trust company business, which I think we could all agree has probably been, if there has been any bright light in the competitive tunnel in the last decade or so, it has been the growth generally--and we can point out some bad examples, that is for sure--but the growth generally of the trust company industry that is becoming stronger, more competitive, and if anything, smartened up the banks to some degree, at least in terms of operating hours and that kind of thing.

So can you--is there any different position to the banking industry, to the banks per se, versus the insurance companies, which are really not the main player to the consumer, and the trust companies?

Mr. McDonald: I guess, to make my point clear, I do not differentiate between the problems that we get in terms of corporate concentration between the banks per se or trust companies. In other words, although we have seen a good deal of competitiveness emanating from the trust companies in the last two or three years, it would not be our position that that means that consolidation of the trust companies should go on to the point where there is one, if you like, major trust company, to be sure.

Now, there has been a good deal of consolidation going on within the trust company industry, although there has been a number of new entrants and, of course, some rules and regulations in terms of how people get in and so on. But as I understand the mandate here, and also putting our position, we are concerned about permitting concentration within any of these particular groups that you want to talk about, the four pillars or whatever, if that can be concluded in any way to mean a dropping off at some point down the road in competitiveness, and therefore higher costs to consumers in terms of doing their financial transactions.

Mr. Ashe: Okay. One last one, Mr. Chairman, and then I will pass on.

We have heard, needless to say--and I do not know if you have been able to follow any of the testimony that we have had before us--needless to say, from the financial institutions, particularly the trust companies, the industry that owns or controls some of the larger trust companies, that size has been helpful, has given them

strength. Because there are some biggies out there, who are, granted, are getting bigger--and I agree with you that when is that point when we lose that competition is an issue--but because of the strength, it has helped the industry and they have been able to do things they could not have done otherwise.

But one of the things they say, of course--and we have heard the opposite from others, and I am sure including yourself--that they need to have some kind of a major position to be able to have the input and the control to not allow the company to make these kinds of big loans that are not really proper, offshore loans that are not proper. And again, that to me seems to be the other side of what the banks have done, which are extremely widely held. And there are no majority positions involved or significant positions involved by anybody, including anybody on the board, and yet they are the ones that have made these questionable--we will put it that way--investments over the last number of years.

Now, that is what they say: you know, by having their own financial interest right there, they are just not going to allow those things to happen. Now, is that a valid argument, in your view?

Mr. McDonald: I think it does have some validity, obviously. One point in this area that you are using as an example, which we of course brought out in our brief, is the dubious investments.

We do not have, obviously, all the insight that a lot of other people have, but we wonder about this whole question of whether there should not be some representation of depositors on some of these boards. And I say that in the sense that, as you people only too well know, the amount of money that banks and/or trust companies can generate in terms of their ability to loan is a multiple of what the deposits are, and therefore they can get themselves into a position where they are dealing with a whole lot more dollars. But the representation of the people that actually are responsible for making that happen does not appear to be getting through to the decision-making process.

In other words, if you or I, as a depositor of our \$10, if that happens to end up in \$100 that they can deal with, what have we got to say about it? Not very much.

And I guess we are searching in part for some mandate, I guess, that would bring more responsibility relative to, not, as you are referring to, the widely-held shareholding of the financial institution, but back to the point of the person that actually has put that operation in business, meaning the depositors.

Mr. Ashe: Okay, that is valid. Do you think in the case of insurance companies, though, that that has made any difference in their policies? As you know, in your mutual companies--well, I guess even in your stock companies--roughly half the board has to be policy-holder/directors. Has that made any difference in their direction?

Mr. McDonald: I think that is probably difficult to prove, you know, without having a good deal of evidence. But it certainly makes one rest a little easier that policy-holder voices are actually being heard in that situation.

Mr. Ashe: That is valid. Okay. Thank you, Mr. Chairman. I will allow somebody else to have a shot.

Mr. Chairman: Mr. McFadden, Mr. Callahan, Mr. Foulds and Mr. Mackenzie.

Mr. McFadden: Thank you, Mr. Chairman.

I wonder if I could look at the current state of competition in terms of financial services in Canada. We have been discussing in the last four weeks that particular issue with everything from the bank and trust companies to the Chairman of the Securities Commission, to Professor Dupré yesterday.

The overall impression that we have been left with is that there is in fact a high degree of competition today among financial institutions, and that in fact we perhaps have more competition today than we historically have ever had, when you add together the banks, trust companies, credit unions, investment dealers and everything else that has been popping up. Do you agree with that analysis or do you think that there is something erroneous in what they have been telling us?

One of the things that has struck me is that you made some distinction between the consumer, meaning the man on the street, and corporate lending, and I am just curious to know if you would agree with the analysis that in fact today we have more competition than we have had historically?

Mr. McDonald: I think in certain areas of the financial community there is definitely more competition, because it appears as if other entities that were normally excluded, or for whatever reasons did not participate in loaning money or some other financial services, are now involved in that, and that has obviously brought some competition. Now, as I say, there is some blurring of the traditional segmented financial sectors, and that has brought some additional competition.

One of the questions that stays in your mind, though, is if in fact there is this heavy degree of concentration in terms of the ownership by the banks, and as I am sure other people have said, on the basis of our research, at least, the high degree of ownership that seems to be coming about in some of the other areas in terms of corporate concentration, you wonder where that is going to lead to.

Obviously, as people have been able to step into one sector and out of another, they have brought a degree of competition into that sector that had not been there before. You wonder, however, how

long with that last if in fact concentration goes on within some of these more dispersed financial institutions. Like, will we continue to see it?

So it is the long way to answer your question. I do believe that in the current circumstances there is a good deal of competition in a number of areas, and probably more than there has been in the past, but the question remains, where are we going in that area?

Mr. McFadden: Where do you see the major problem developing? We have been told by some of the witnesses that the big threat to competition and the biggest problem of concentration is the overwhelming power of the banks; they have such a huge percentage of the total assets in the financial sector that we have quite an unhealthy concentration among the six major chartered banks.

They have told us, "Oh, don't worry about that. We are broadly held, no problems. No one can own more than 10 per cent of us so everything is fine, you should not worry about that"; that what we should be worrying about is other sectors where individuals can own more than 10 per cent of the trust company or whatever. How do you react to that? Do you believe there is an unhealthy concentration of financial assets within the chartered banks? Do you think that is a major overwhelming concern or do you think there are other issues that are more important in terms of concentration?

I know you have commented on the banks. What I am getting at is, how big a problem do you think concentration within the banks is in terms of their size and power?

Mr. McDonald: I do not think I am in the position really to conclude that we are now in the position, in terms of corporate concentration in the banking community, where we have problems in terms of excessive charges to consumers. That conclusion would only be and could only be reached after a very extensive bit of research on what sort of profits they are taking relative to what might be considered to be normal, and we do not have the financial wherewithal, as an organization, to actually conduct those kinds of studies.

But based on organizational theory, in terms of the structure of the banking industry, it would suggest that the kind of concentration that they already have, meaning somewhere in the neighbourhood in excess of 50 per cent of the assets, that they would be in a position to act in an oligopolistic manner. And that tends to suggest that there is at least the potential for them to take more out of the marketplace than would be the case if that was spread around among more firms; in other words, that they did not have the same degree of competition.

Unfortunately, we are not in a position to deal with the quantitative aspects of it because we have not had the resources, nor have we had research provided to us, that would allow us to draw hard and fast conclusions. But I think the evidence in terms of what people

say should happen, given the organizational structure that we see, then it is bordering on being a problem.

Mr. McFadden: When we started our hearings, we received a submission from the provincial government, from the new Ministry of Financial Institutions. They suggested to us that the major concern of the province had to be the integrity of the financial institutions above everything else, that it should be paramount. And that point has been made to us by other witnesses, ahead of competition: that the objective of regulators in the government, the paramount overriding concern should be integrity, security of the depositors, above all. Competition should be a secondary--not necessarily unimportant, but secondary in terms of our thinking.

Not everybody shares that view. I wonder if you could give us your opinion as to whether in fact that is a valid or a proper approach for government regulation to be pursuing.

Mr. McDonald: Obviously, consumers are very concerned about the integrity of the system from the point of view of security of their funds, but it comes down to a balancing between how much do you pay for that integrity. And there is a saw-off. There is a combination of things that can be done.

We have the deposit insurance there at the moment. Maybe it could be increased more in line with inflation. I know it has been increased in the past. Maybe there is some way of having specific insurance that people could actually buy to guarantee their deposits above and beyond a certain level, that would provide some security.

It seems to me that people like yourselves have to draw that conclusion, as to where the balance is between providing sufficient rewards to guarantee the integrity of the system, as opposed to the cost of doing that job.

Mr. McFadden: And that is a difficult balancing act, very clearly.

Mr. McDonald: Indeed it is.

Mr. McFadden: Thank you very much.

Mr. Chairman: Mr. Callahan.

Mr. Callahan: I read your brief as being one that infers that concentration or the blurring or the elimination of the pillars potentially is a dangerous matter for the consumer, and I would just like to put forward a hypothetical example. And perhaps it is not so hypothetical. I am sure Mr. McFadden has run into this in his former life.

You get a company that is a developer, that is selling new homes ...

Mr. Foulds: McFadden never had a former life. He rose full-blown out of the dust.

Mr. Callahan: Why don't you go call your constituents!

Just to go back to the hypothetical example, you have got a company that is a developer of real estate, and it is developing a major subdivision. Perhaps they are one of the giants of the industry, where they develop subdivisions all over Ontario and Canada. They have an agreement of sale that is probably about four pages long, with all of the perks on their side, some of them being that the purchaser shall take a transfer of the insurance policy in existence, which also happens to be run by a company that is controlled by the developer.

The mortgage that you have to assume in order to buy the property, unless you come up with cash in your hot little hand, comes from a company that is controlled by the developer, and interlocking control of all of them. You might even have the further provision that for a builder to buy a lot from that developer, that he has to use certain trades to perform the work on the houses in that subdivision.

Now, you can carry that scenario on ad infinitum, really, depending on the attractiveness of the subdivision, the location, and how eager people are to buy. And to me that demonstrates, has to demonstrate the tremendous danger of the blurring of the four pillars, because in fact what you have done is you have allowed, through either direct or indirect control, one group to dictate many factors: the type of insurance, the cost of it, the type of mortgage, the cost of the mortgage, people who build the buildings, the type of material that goes into the buildings.

Now, I do not know whether you, in your representations before this committee or any other committee, that you have run into this as an actual fact, but do I gather that that is what--maybe not in such a stringent fashion, but certainly in that vein, is that what you are looking at in terms of the difficulties for the consumer that are brought about as a result of this type of concentration?

Mr. McDonald: That was the point that we were trying to make in very general terms under the item of self-dealing, where--I mean, your example is a very explicit and real one from the point of view of the problems that you can get into.

That can happen not only in your example of real estate, but that can also happen in the provision of other services within the financial community if in fact there is a conglomerate of sorts that have the various services that are being offered, and referrals go on from one segment of the corporation to the other.

If they have something that you want, of course, the degree to which they can force you in a particular direction increases. The housing example is one that, as most of you people know at the moment, is very bullish, and therefore you can get into more problems than you can when there is a little more competition in that area; a

lot more supply, in other words.

Yes, I would agree that that is a concern, and in fact we have addressed that in very general terms in the self-dealing section.

Mr. Callahan: I am not so sure that that is a matter of self-dealing or--you see, some of the witnesses before us would argue that that is just good business. In other words, that is sort of cornering the market, as it were, and wringing out every possible nickel. And there is nothing wrong with that. I mean, our country operates on a competitive business basis.

But my concern, and I seem to read it in your brief, is the end answer to that that the consumer is really being ill served as opposed to better served? And I gather your comment might be that it is, or could be, in a situation like that.

Mr. McDonald: My interpretation of your example included the fact that these people would be charged higher rates for insurance and higher costs for other services than otherwise would be the case. And if I took that example to be accurate, then obviously the consumer is losing out, relative to getting those services from someone else at the lower cost.

Now, there is something wrong with the system that allows that to happen. Now, maybe it is because of the high demand for housing, in your example, in relation to the supply at this particular time, or whatever. The point is, how do we set the system up so that that consumer has access to alternate services at competitive prices?

Mr. Callahan: Well, I suppose that is really at the root of the question of the lessening of competition by corporate concentration.

Just another example I put to people from Crownx yesterday. I, and I am sure every member of this legislature, have been lobbied by a group called A.L. Williams, who operate--if you are not familiar with it, in essence there are two issues. One is part-time life insurance agents, which really have nothing to do with this committee; but the other is that they wish to sell--one of cogent issues that is relevant to this committee, as I see it anyway, is that these people are going to sell insurance policies to people in such a way that they will have extra cash left over, and then they will sell them securities, RSP's or GIC's or whatever, to cover that saving.

Now, here again you have got a blurring of the pillars to the extent that perhaps the person selling the life insurance, or the policy of the company that is selling life insurance will not be quite as generous or concerned about the consumer--I am not saying that is the case with Williams, but it could be--in an effort to try and centre in on a secondary measure they have got of their particular type of activity.

I do not know, I asked that question and I got the impression

that Crownx either did not understand it or they were answering around it. They did not see any difficulty with that. Do you see a difficulty with that, as a representative of consumers? Within the framework of what we are discussing here, the question of . . .

Mr. McDonald: Well, there could be some difficulty there. One of the best defenses that consumers have with regard to any of these types of things is adequate information as to what services are being offered.

Now, there are government agencies that are there supposedly to provide this kind of information. Whether they do it well or not may be the subject of some other committee.

I would think properly informed consumers should be able to make reasonable decisions in that area as to whether they want to buy the insurance, which they would presumably acquire at a lower cost, and, with whatever money they save, do something with this company or do something with that elsewhere.

I know there are problems in terms of a number of solicitations of this type where people try and save you money in one area and take the money from you in another, and probably in the end take more than what they would normally have gotten in the first place. But that is a situation that is always going to exist, and I think, again, information is the answer.

Mr. Callahan: Just one final item, if I could, and it goes to the question of information. We have inquired of the trust companies, and I suppose even the banks, as to whether or not they draw to the attention of the depositor the fact that if they plop \$120,000 into the bank they are only covered for \$60,000.

I noticed in the brief that I got yesterday--it is a more extensive brief of November 26, 1984--that you were recommending that--I am reading something into it--that the depositor be made aware of the limits on the CIDC . . .

Mr. McDonald: Yes, we still believe . . .

Mr. Callahan: . . . and that if you wish to protect yourself for a greater amount, that you should be required to pay, as you would with, say, insuring a parcel, you would pay a higher premium. Do you not see that, though, as a passing-on by the financial institution of those costs for those people who perhaps only have \$60,000 or \$10 in their bank account--which is probably the case for most of the guys sitting here, I would think? Do you see that as a function of the depositor or do you see that as a function of perhaps the government getting involved, as they have to this point?

Mr. McDonald: Well, as I mentioned earlier, maybe in passing with regard to one of the other questions, we have looked a bit at this matter before, and again I believe it comes down to the point, which I believe you are getting at, of who is going to pay for the cost of

additional coverage beyond \$60,000? Would it be fair to raise it to \$120,000 and have the \$5 people share in the cost, as they probably would under that option, or should you leave it at a lower level and have people who have that kind of money actually pay individually for the cost of insuring themselves?

I think those are the choices. We do not have a firm position on that at this point, although we have in fact come very close. We have come close to suggesting that the self-insurance beyond a reasonable minimum is the way to go.

Mr. Callahan: Thank you, Mr. Chairman.

Mr. Chairman: Mr. Foulds, Mr. Mackenzie and Mr. Ferraro.

Mr. Foulds: Can I ask you a couple of basic questions? Who are the consumers of services of financial institutions, in your view?

Mr. McDonald: Well, there are a number of people. People who use the financial services, and then there is a secondary group of people who are almost all people who can be affected by the operation of financial institutions. But the primary consumers are those who use the services.

Mr. Foulds: Can you give me an example of both cases, both the primary and what you call the secondary consumer?

Mr. McDonald: Well, a primary would be a person that actually has capital that he is doing something with other than putting in his sock, and . . .

Mr. Foulds: He is buying insurance, or . . .

Mr. McDonald: He is either buying insurance or he has got a bank account or he has bought securities or he has a trust that is being administered for him. Now, all of those people who have their money in a sock, they are not primary participants in the financial situation but they can be affected if in fact, through the collapse of major institutions, there happens to be a payment that is required from them through taxation systems or whatever.

Mr. Ferraro: Now, wait a minute. I am not a primary consumer, but my wife is a primary participant.

Mr. Foulds: The reason I asked the question is because it is something we are going to have to come to grips with, because the banks, for example, would argue that the people who borrow from them, both large and small, are their consumers. And therefore, they would argue that those large loans that they made were a benefit to those consumers.

And yet, you seem to be saying in your brief that, of course, that is a bad thing for what I would call rank-and-file consumers.

Mr. McDonald: Well, it is potentially bad if those major debts happen to be not repaid, and that can be bad--I mean, it is probably not bad for the people who borrowed the money. They are a definition of a particular type of consumer. But it certainly will be bad for the other consumers.

Mr. Foulds: Yes. You see, one of the things that you mentioned in your brief or you used in your presentation was a phrase that really struck me, about "dubious investments." How can either a regulatory or a legislative committee like this, or the Consumers' Association, define a dubious investment?

Mr. McDonald: Let us take for an example one of the other issues we have dealt with in the recent past, the whole question of pension fund management.

Mr. Foulds: Okay.

Mr. McDonald: Now, in that area, you have a "prudent person" definition, and presumably if you can define a prudent person in terms of what he does in terms of investment, you can also define a prudent investment in the context of a loan. I am not saying I can do it, but there are people out there that say that they can. I trust that they are capable of doing it.

Mr. Foulds: Then if I follow what you are saying, you are saying that in terms of investment and in terms of loans, a financial institution has a responsibility to be prudent rather than aggressive in order to protect the other . . .

Mr. McDonald: I think they can be as aggressive as they wish to be, but within the bounds of a certain degree of prudence.

Mr. Foulds: Because the demand from the consumer is also for a high return rate, as well as safety.

Mr. McDonald: Yes, but there is a degree of risk beyond which I would say that if you give the decision to the consumer to make, as to whether that investment is taken or not, he will draw the line. And one of the points we were making earlier is that he does not have the opportunity to participate in that decision, in many cases.

Mr. Foulds: That actually very neatly leads me to my next question, which was, do you know of any instances where--let me back up a bit with a preamble. One of the things that we have had presented to us in this committee is that large financial institutions, trust companies, insurance companies and banks have had a great deal of difficulty in finding qualified outside directors.

Do you know of instances where any of them have sought, from your association, names or nominees to be outside directors representing the interests of depositors or of policy-holders?

Mr. McDonald: No to my knowledge, no.

Mr. Foulds: Do you think that that would be a useful and fruitful thing for not only the consumer--well, obviously--do you think that would be a useful and fruitful thing for the consumer?

Mr. McDonald: Yes.

Mr. Foulds: Do you think it would be also beneficial for the financial institutions involved?

Mr. McDonald: Yes, I do.

Mr. Foulds: Why, in the second case?

Mr. McDonald: Because it would bring to that particular decision-making forum that outside view, which obviously would be one view among many, but at least that sort of reason would be brought to the decision-making which is not necessarily there now.

Mr. Foulds: It would ensure that at least that view was represented. At the present time, we are not sure, frankly, whether that view is represented or not.

Mr. McDonald: Correct.

Mr. Foulds: Okay. Thank you, Mr. Chairman.

Mr. Chairman: Mr. Mackenzie.

Well, perhaps just one supplementary question. No, I will not.

Mr. Mackenzie.

Mr. Mackenzie: I am not surprised that your organization has not been asked to submit names of so-called independent directors. Then again, I cannot remember many cases where a trade union movement has been asked to either, and an awful lot of their members are users of these various services.

I noticed in your first point in your brief that you are stating your case on the principle that more and not less competition is ultimately beneficial to the consumer. And as you have probably gathered from some of the questions and some of the comments, certainly the trust industry, insurance and many of the people--more so even than the banks, I think--have made the case that really the control issue, the integration of their services, their ability to compete, in other words the bigger-is-better kind of argument is really so that they can be more competitive and do a better job of servicing the consumer.

I think you answer it to some extent in your point 5, but I am wondering if you have any other things you can tell us or

arguments you can give us that would counter the argument from many of the financial institutions that they should not have the controls that are suggested placed on them, because it would make them more competitive.

Mr. McDonald: Well, here again, obviously there is a balancing point between the kind of freedom that you give them to operate however they want to, compared to the danger of abuse of those particular freedoms. Unfortunately, in this society, particularly in your area of it, you are dealing with those issues all the time. I am sorry if I am being very general about that, but it is a difficult decision, I believe, to decide where you want to start regulating in order to allow as much competition as possible, but at the same time to protect against the risk of undue consumer problems, if you like, in that context.

Mr. Mackenzie: But they tell us they are all such good fellows and effective managers, that that is really not a concern we should have.

Mr. McDonald: Well, I could quite understand that, but--I suppose almost anybody in this society would take that decision, that they are all good guys, but one has to look at whatever evidence is available to see if in fact that holds true or not. And presumably, that is the very thing that you people are doing.

Mr. Mackenzie: And your argument is that there is enough evidence that we have had problems that that just cannot be accepted at straight face value?

Mr. McDonald: That is correct.

Mr. Chairman: Mr. Ferraro.

Mr. Ferraro: Thank you, Mr. Chairman.

Just one question, really, to carry along the line. Obviously, it makes sense from the consumer standpoint that more competition, and not less, ultimately benefits the consumer. I am wondering if you could give me a comment as to whether or not your association feels positively or negatively about who controls a financial institution vis-à-vis, for example, Lloyd's Bank takeover of the Continental Bank.

Does your association get into or is it concerned about the fact that you have a non-Canadian owner of a major financial institution in this country, that notwithstanding the somewhat hypocritical position being taken by certain committees federally on financial institution concern, all of a sudden, boom, they allow a major offshore entity to get into the ballgame. Does your association have a position?

Mr. McDonald: The position that we have taken in the past, and it continues to be the CAC position either provincially or federally, is that we would prefer Canadian ownership to foreign

ownership, and that is primarily because of the greater difficulty in controlling the activities of corporations that are not owned in Canada.

In other words, there are certain aspects of regulation that are made more difficult. Not only that, but certain aspects of investment decisions that they might make that could run contrary to the objectives of Ontario or Canada, depending on which you are talking about.

Essentially, our position is that we would prefer Canadian ownership, but obviously it is not something that can always be regulated, or always should be tightly regulated. Some foreign competition obviously has worked reasonably well in some of the financial sectors, but our position officially is that we would prefer Canadian ownership of financial institutions in this country.

Mr. Ferraro: One other question, and I really have not gotten into any great depth on it, but it appears to me that the consumer, by and large the majority--I will say the majority; I do not have any statistics to back me up--the majority of Joe Average consumers, I am talking about the individual who essentially lines up every Friday and deposits their cheque, and by and large is not in the business of negotiating large amounts of funds and so forth--but that majority has to some degree an option in that they can deal with co-operatives and credit unions.

Does your association see that as a viable alternative, in other words, strengthening that aspect of it from the standpoint of the consumer? I mean, they are in essence the shareholders.

The reality of the situation is that while that option exists, the majority of the consumers, certainly in that range, probably would still deal with one of the major financial institutions that are not credit unions. I do not know if those assumptions are correct. I think they are, but . . .

Mr. McDonald: I do not have better figures than you. I would say that there are a very large number of people who actually participate in credit unions. Obviously, that being the case, and the fact that credit unions are not very large must mean that it is fairly small amounts per person.

I would cite the example of Québec, where the *caisse populaire* is a much stronger entity within the financial community in that province than credit unions are in Ontario. And it may be a philosophical reason as to why people do or do not participate, or it could be an interpretation of where they feel safer in terms of putting their money.

I am not exactly sure, but you have raised an interesting point in the sense that credit unions in fact have a greater relationship with the actual depositors in terms of participation than a normal bank. And why people have not moved more in that direction,

I am not entirely sure.

Mr. Ferraro: Well, it begs the question, you know, if the credit unions offer what a bank does or a financial institution, and essentially they do--personal loans, car loans, house loans, checking and so forth, RSP's, you name it--then the consumer by and large, and I am talking about the average consumer, the majority of the citizens certainly in Ontario, they have made a decision that they want to deal with the big institutions. When they have an alternative, it, you know, really substantiates to some degree what we are hearing from the major financial institutions' directors and CEO's, coming here and saying that people want it that way. And they do provide the service, and people are happy with that service.

If they did not have the option, then I would be a little more dubious. But maybe, as you say, it is the fact that they have not done their homework from the standpoint of soliciting depositors or memberships to the credit unions, because it certainly is a grassroots financial institution.

Mr. McDonald: Indeed, it is. But it just strikes me that it is rare to see a credit union advertising and promoting their services in the same sense that you see some of the larger financial institutions, whether they be trust companies or banks, doing the same thing. And possibly that is because they are too small to afford a viable promotional or advertising program. I am not really sure.

But again, I am also sure that they do not have the same rules in which to operate that banks and trust companies have, and that may limit their possibilities also in terms of attracting the large amounts of capital that the other institutions have been able to do.

Mr. Ferraro: Thank you.

Mr. Chairman: Mr. McFadden.

Mr. McFadden: One thing that came up in Mr. Foulds's questioning that got me interested here, and that relates to what consumer is the Consumers' Association representing in the case of financial institutions? It seems to me there are three very distinct sets. You have got the shareholders, you have the depositors and you have the borrowers. And borrowers of all types, from somebody who is borrowing to buy a fridge right through to presumably these oil and gas companies, who are buying on large scale; they are consuming too.

Who exactly do you feel you are representing among all the consumers here? Do you feel you are trying to represent all three, or do you feel you are more oriented toward the borrower, more oriented toward the depositor? Are you trying to look after the shareholder, the small shareholder who owns 5 or 10 shares? Who do you feel you are trying to protect right now?

Mr. McDonald: If I had to put it into a priority ranking, then I would say depositors, borrowers, shareholders. Our organization--we would have to do some sort of a membership profile to find out exactly who holds shares versus who has loans versus who has deposits, but--and we have not that information. But essentially, I think it would be reasonable to assume that we have a lot more borrowers or depositors than we have shareholders.

Mr. McFadden: That leads me to the next question. It seems to me that within that there are potential conflicts of interest because the depositors' goal is to not put, presumably, any of their money at risk. They want to be able to get their money out. Shareholders, of course, do not want their equity at risk.

We, in this legislature, and people generally, of course, are always attacking the banks because they do not give enough money to business. You know, small businesses claim that they do not get enough money; the banks come back and say, "That's fine, but we're not prepared to risk the depositors' money and our equity, and become a shareholder in somebody that wants to open up a variety store and has no money."

Now, the variety store owner is saying, "I'm a consumer. I need the money. They are not prepared to lend me money, or if they are it's at too high a rate for me to pay. And I as a consumer want to get service from the financial sector that is government regulated." The financial services sector is saying, "But I am not prepared to put our depositors in as a shareholder in a variety store because the risk is too high. This person here has no equity really to put in their business." And I run into this all the time.

And I think anybody in the financial services sector has seen loan applications coming in that really have no security being offered at all. How do you balance that kind of interest?

Mr. McDonald: Was this experienced in your first life or your second life?

Mr. McFadden: Both. I find in my constituency office business people coming in and saying, "I don't have any money, but I have a good idea and the banks are not prepared to help me."

Mr. McDonald: I agree that there is a potential conflict, but by and large, as I understand it--I suspect you understand the same--loans will be made only within a certain risk framework, and of course the rates are varied accordingly. But obviously, there are some points at which most financial institutions will not loan money if there is not some basis on which they think that they are going to get their money back, plus the interest.

And frankly, I do not see a system whereby just anybody could walk in and demand and get as much money as they wanted for whatever purpose.

So I think the risk system has to be a part of the financial lending area. And in those segments of the economy where there has to be capital provided in order to get economic activity started, then I think that is where the government programs should come in in terms of guaranteeing loans and so on. But again, in those kinds of programs, obviously you have to look at what the potential is for that paying off, because no government that I think would be prudent would simply give money out without regard to what the chances were of that operation being viable.

Mr. Callahan: Could I have a supplementary just on that? And it may not be supplementary in final analysis, but you made a statement about something that is very unique to Canada, is that Canadians are depositors far more than they are risk-takers. Equity shares and so on.

Now, we have had some--and I bring that in as a supplementary on the question of consumers, because they really are a different type of consumer than anywhere in North America.

Mr. McDonald: We buy more life insurance.

Mr. Callahan: Yes. And we have had people before us who try to say, well, you have to be competitive with the United States, the Pacific Rim, and all these other areas. Would it not be fair to say that the consumers, putting them in the area of depositors versus shareholders, because of the high concentration and the high competitiveness of banks in being able to pay eight per cent on a--just leaving your money in their bank, compared to the risk they might take if they went into equity shares, makes us a very different situation in terms of the rules there that are applied, being the ones that would be applied here? Not so much from the question of the rules themselves, but in terms of the vested interests that are prepared to support that type of activity.

Surely, if you are a shareholder, your concern is to free up the--deregulate, free up, you know, the rules, so that you can make a bundle, whereas if you get a depositors' society, which I think is what Canada has, then the government has to look at it in a very different fashion in terms of protecting those depositors. And maybe the long-range answer is that--and I am sorry, and this is not a political statement, by the way, but I am sorry that the present government with the large mandate it had did not attempt to reduce this competition between the banks and the very needed equity capital that is required out there, risk capital.

Mr. McDonald: I firmly believe that you people, the elected representatives of the people, will in fact move in a direction of what people want; that seems to me to be the way it works. And if in fact, as you say, Canada is a depositor society, and I tend to agree that it is that, then my assumption would be that you would come down on the side of depositors, more so than investors.

Mr. Callahan: Not only that--if I might just add to that, Mr.

McFadden--carrying that just a bit further, your statement in your opening statement there by Lord Keynes also implies that if we are a depositor society, and if in fact we are influenced by the majority of those depositors, that we will come to the aid of the financial institution that fails simply because we are a depositors' society. It is a bit of a vicious circle.

I am sorry, I did not mean to interrupt.

Mr. McFadden: No, no, that is okay.

I wonder if I could pick up from that point. The appropriate role of banks in the economy--you could almost look at the whole of the economy as a consumer. And I noticed you mentioned in your brief the high-risk creditors, these oil and gas explorers. If the banks had not been prepared to support the oil and gas sector, I think they would have gotten tremendous criticism from the Maritime Provinces and from the west because they were screwing regional development, were not prepared to support Canadian development. And if foreign investment had come in and done it, they would have been criticized because what they did what they sold out our whole natural resource sector to foreign investors, and where were the Canadian banks when all this was going on.

I think at the same time when that was happening, everybody was involved in some oil play, it seemed. I mean, everybody wanted to have a piece of the action. And of course, thousands of people moved from Ontario to get out there so they could take advantage of all of the spare cash that seemed to be floating around. Now, of course, it is all coming back here, money and people.

But how do you deal with that, in the sense--that the financial institutions we have in this country are looked on as engines of economic growth, and how do you deal--I mean, inevitably in that there is some risk. I mean, the steel industry is doing fine today. The banks get involved with financing, say, a new mill, and the steel market goes bad in three years' time. Is that a high-risk credit they have written or was that a prudent risk in 1986 and a bad risk in 1989?

And I am wondering if this is not a recurring feature that you are going to have with the banks, certainly in the commercial and corporate area, that the economy changes? And what role, then, do banks have in economic development if they cannot get involved in supporting major economic development projects and so on?

Mr. McDonald: I would suspect that some of that is self-corrected, in the sense that, you know, once burned, twice shy. It would be very interesting to know what kind of investment funds that the banks would now provide to the oil industry relative to what they did back in the boom days. And you know, obviously in your example of the steel industry it would be a similar type of thing, in the sense that maybe they believed that there was no such thing as a downside in oil prices at that point in time. Like, thousands of people

were predicting that oil prices would be \$60 a barrel, \$90 a barrel or something.

Mr. McFadden: Everybody predicted that, the government, the economists, everybody.

Mr. McDonald: But I guess the lesson that this brings is although, sure, you are looked upon as the engine of economic activity, then how much--like, what sort of weighting to you put into a given sector, aside from how rosy it might look at that particular time? The real estate market in Toronto looks fantastic at this point in time, in terms of consumer housing at least, but I do not think there are very many people who would not say that that was not going to have another cycle somewhere in the future, and you would not want to capitalize yourself to a large degree on the basis of the high side of that cycle.

Essentially, what we are saying here is that they are in the position to take some pretty interesting risks, whether it be with a domestic resource industry or other industry or with foreign countries, in terms of loans that are made to other governments and so on, that can be very risky.

It is just a question of the balancing. I do not disagree at all that the banks have that role to play and have played it. It is only a question of degree and who they are putting at risk by taking the long side of some of these.

Mr. McFadden: It is a difficult question, is it not, because let us say Ford of Canada wants to expand their plant and create X thousand additional jobs, and they base it on market projections, and the banks say, "Well, we've already lent out--let's say five per cent of all of our corporate loans are in the automotive sector, and that's all we're prepared to lend." Canadian banks say, "Five per cent"--if we have all agreed--"that is as much exposure as we want with cars."

Ford comes in and says, "Yes, but I want to borrow a billion dollars to build a two-billion-dollar plant. These are all my projections." They say, "Well, sorry, we're not interested, because our policy now is that because of our exposure in oil and gas, we're not prepared to go any further than that."

I think that the amount of public criticism of the banks that would be generated, everything from the *Toronto Star* on out, about screwing employment opportunities for Ontarians and export opportunities and so on--now, the banks could be proved totally right, because if the downturn took place in the automotive market, say in 1988-89-90, and the banks did not invest in it and some other--they got the foreign banks to do it and the whole thing went down the drain, all the banks would clap themselves on the back and say what wonderful people they are that they were smart enough to protect their depositors.

It just seems to me you get in to a real problem here in

trying to make those kinds of judgments, for a major financial institution, anyway, as opposed to house loans and car loans, where you have got a very easily identifiable consumer. But when you are dealing with a large enterprise where you are creating jobs and moving and creating manufacturing plants or whatever you are doing, there is a big risk involved, inherent. Even if you take into account, as a prudent loan officer or executive would do, there is still huge risks in any mill, car plant, steel mill, mine, pulp and paper plant. I mean, it is a huge downside risk.

Mr. McDonald: I agree, it is a very difficult balance. I am not suggesting, you know, that tight regulations be set up in any way that--as I said, that you can only put five per cent of your investment money in X. You know, they may in fact take that position in any case.

I am not absolutely sure, but I think part of the complaints that come forward on the basis of people not being able to get money is because they have certain standards, and probably sector limits. It is up to them to say, but it would appear that way from the outside, that they are playing that game to some extent.

But the question is, you know, what makes them do things differently in other areas?

Mr. McFadden: I will just finish on this note. I was just curious to ask you about this. One of the criticisms made of the larger financial institutions as opposed to the trust companies and credit unions is their orientation to large enterprise, the GM plant, the Stelco plant, as opposed to Joe Blot's little thing that is going to produce widgets out of his garage.

Now, Joe Blot's could in 50 years' time become Joe Blot's Incorporated, the biggest widget manufacturer in the world. But in the interim, he is still trying to operate out of his garage, and the criticism that comes to us is that the banks have this bias towards the large enterprise, the big job-creating enterprise and so on, whereas the small guy has problems.

Do you feel, looking at it not from the depositor's point of view, but the consumer's, that there is this serious gap for the borrowing consumer, small borrowing consumer, who needs the money to start up a small enterprise? Do you feel there is a gap there or do you feel that that area is fairly well serviced, given the mix of various programs that they can get through the different credit-granting agencies?

Mr. McDonald: Based again just on the number of people that we are aware of that have difficulty getting capital, and this is true of a number of different sectors, there seems to be some problem in that area. Now again, I go back to the point where we do not--we are not in a position to answer that question in a quantitative sense of having tremendous amounts of back-up data to show you.

I think the need for--the fact that you have government

programs to assist small business get started is in itself a demonstration of the fact that there is a requirement there. The question of whether the demand is being reasonably met in that area or could be improved is an interesting question. I would suspect that there is more demand than there is supply of funds. What I am not sure about is exactly what sort of risk that these people are expecting either government programs or bankers to take in order to get them that money.

And to my mind, it is reasonable--if it is beyond reason or too risky, then I cannot see how the money could be provided unless it is some sort of an economic incentive program where a government wants to take the chance.

Mr. McFadden: Would you be favourable, then, to the proposal to allow trust companies to move into more business loans and expanding the basket provisions? Do you think that would be helpful? I know there is a provision, as you know, in the proposed Loan and Trust Corporations Act to permit the trust companies, at least, to get more involved in business loans. Do you think that would be helpful?

Mr. McDonald: I think it could add a bit of competition in that area, and therefore might bring a bit more capital into that particular sector of the economy.

Mr. McFadden: I take it the reason you are frowning is you are not sure of the risks to the depositors and the trust companies getting into it.

Mr. McDonald: Correct.

Mr. McFadden: Thank you.

Mr. Chairman: The submission you did to the Task Force on Financial Institutions in 1984, you summarized by indicating that you felt that share ownership to one individual in a trust company should be limited to 10 per cent. The Task Force then recommended a general principle that policy should be to encourage the development of widely-held rather than closely-held financial institutions.

The Blenkarn Committee subsequently also talked about 30 per cent for federal institutions. And when Chairman Dupré was here talking to us yesterday, he suggested that subsequent to his report, he felt that if he were writing it again he would have been much tougher in what he was going to say because of his observations of the Imasco takeover. I just wondered if you have any further observations in that area, bearing in mind what you have seen over the last two years?

Mr. McDonald: The association still believes that there should be some numeric limit. The 10 per cent--obviously, there is greater ownership at this point than 10 per cent. The question is, if you work toward 10 per cent, how long--how do you do it? Or do you go the U.S. direction of having people divest themselves of holdings, which is a rather significant move.

I just have to come back, I guess, to the association's position that we do think that there should be some limitation on individual control. And our last stated position was the 10 per cent, and we have not officially changed that.

Mr. Chairman: Do you have a supplementary, Mr. McFadden?

Mr. McFadden: In other words, what you are suggesting is maybe...

Mr. McDonald: There may be some room, like in further discussions, to move that a bit off the 10 per cent.

Mr. McFadden: Which direction?

Mr. McDonald: It certainly would not be 30 per cent.

Mr. Chairman: Any further questions?

Thank you very much, sir, for your participation in our deliberations. There has obviously been a lot of prying into what your thinking is, and as you indicated, our job is, I suppose, to try and reflect what the concern is of the public, and in particular the Consumers' Association very much interests us. You have got 160,000 members, I think you said, in Canada. It was 56,000 we are concerned about.

Thank you very much.

Mr. McDonald: Thank you very much for having me. I enjoyed it.

Mr. Chairman: Members of the committee will recall that we are not meeting this afternoon, so we will adjourn now until 9:00 o'clock Thursday next, except for Mr. Foulds, who will arrive at 9:35.

The committee adjourned at 11:30 a.m.

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